April 30, 1998

OFFICE OF THE HEARING EXAMINER
KING COUNTY, WASHINGTON
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REVISED REPORT AND RECOMMENDATION TO THE KING COUNTY COUNCIL.

SUBJECT: Department of Development and Environmental Services File No. **L94P0022**
Proposed Ordinance No. **97-587**

McGARVEY PARK
Preliminary Plat

Location: Immediately north of Petrovitsky Park, east of the terminus of SE 165th Street and northwest of Lake Desire at the Urban Growth Boundary of King County

Applicant**:** Glacier Ridge Partnership
Attn: John Adams
1775 12th Avenue NW, Suite 101
Issaquah, WA 98027

SUMMARY OF RECOMMENDATIONS:

Department's Preliminary:	Approve, subject to conditions
Department's Final:	Approve, subject to conditions (modified)
Examiner:	Approve, subject to conditions (modified)

PRELIMINARY MATTERS:

Application submitted: December 29, 1994 (revised February 26, 1996)

EXAMINER PROCEEDINGS:

Pre-Hearing Conference:	August 26, 1997
Hearing Opened:	October 27, 1997
Hearing Closed:	December 29, 1997
Hearing Reopened:	April 21, 1998

Participants at the public hearing and the exhibits offered and entered are listed in the attached minutes.

A verbatim recording of the hearing is available in the office of the King County Hearing Examiner.
ISSUES ADDRESSED:

- Coal mine hazards
- Drainage
- Wildlife
- Steep slopes
- Traffic

FINDINGS, CONCLUSIONS & RECOMMENDATION: Having reviewed the record in this matter, the Examiner now makes and enters the following:

FINDINGS:

A. <u>Introduction</u>:

1. General Information:

Owner/Developer:	Glacier Ridge Partnership Attn: John Adams 1775 12th Avenue NW, Suite 101 Issaquah, WA 98027
Engineer:	OTAK, Inc. 620 Kirkland Way, Suite 100 Kirkland, WA 98033
Location:	Immediately north of Petrovitsky Park, east of the terminus of SE 165th Street and northwest of Lake Desire at the Urban Growth Boundary of King County
STR:	25-23-05
Zoning:	R-6-P (Urban) and RA 10-P (Rural)
Acreage:	492.76 (98.55 acres Urban; 394.21 acres Rural)
Number of Lots:	Two development alternatives/options are proposed for the Urban portion of the site (98.55 acres, designated R-6-P). The remainder of the site (394.21 acres, Rural) will be dedicated to King County as open space.
Density:	The density for the Urban portion of the site (98.55 acres) will be 5.68 units per acre (Option A) and 5.7 units per acre (Option B). The density for the site overall (492.76 acres) is approximately 1.14 units per acre.
Typical Lot Size:	The lot sizes (Options A and B) range from approximately 4,000 to

	7,500 square feet in size for the detached residences and 2,500 to 3,500 square feet for attached dwellings.
Proposed Use:	Single family detached and attached/townhouse
Sewage Disposal:	Cedar River Water and Sewer District
Water Supply:	Cedar River Water and Sewer District
Fire District:	King County Fire District #40
School District:	Kent School District #415
Complete Application Date:	December 29, 1994 (original submittal) February 26, 1996 (revised)

2. Except as modified herein, the facts set forth in the King County Land Use Services Division's ("LUSD") preliminary report to the King County Hearing Examiner for the October 27, 1997, public hearing are found to be correct and are incorporated herein by reference. Copies of the LUSD report will be attached hereto for submittal to the Metropolitan King County Council. The LUSD staff recommends approval of the application, subject to conditions.

3. The Glacier Ridge Partnership on February 26, 1996, submitted a revised preliminary plat application for the subdivision of a 98.55 acre portion of a 492.76-acre parcel. The property overlooks the Cedar River Basin to the north, with the Fairwood neighborhood lying to the west, the Lake Desire neighborhood to the southeast, and King County's Petrovitsky Park to the south. The Applicant has submitted two development alternatives. Option A consists of 560 lots comprised of 380 detached single family dwellings and 180 attached townhouse lots. Option B is for 564 lots with 435 single family and 129 townhouse lots. Both options propose dedicating a tract to Fire District No. 40 for a future aid station to be located on the northern half of the property.

4. Prior to 1994 the entire parcel was zoned for Rural development. With the adoption of the 1994 King County Comprehensive Plan the property was designated as conditionally suitable for inclusion within the County's 4:1 program. As described within Comprehensive Plan Policy I-204, the 4:1 program is devoted to the acquisition of properties dedicated to the creation of an open space buffer tract lying along the County's Urban Growth Boundary. The Plan allows 20% of a large Rural designated property to be zoned for intensive Urban residential development in exchange for dedication of the remaining 80% to the County for open space purposes. As proposed by the Applicant, urban residential development will occur along the western boundary of the parcel adjacent to Fairwood with the open space tracts lying to the east.

5. The McGarvey Park property consists of mostly wooded rolling terrain which drops off sharply to the north towards the Cedar River Valley, the direction of most site drainage flows. Two major wetlands lie at the southwest and southeast corners of the property, and Lower Cedar River Wetland No. 16 at the southwest corner contains an important sphagnum bog element. Due to the general presence of Alderwood soils, erosion impacts are a concern in steep slope areas,

particularly where stream flows are encountered. In addition, the steep slopes along the northern site boundary pose landslide hazard risks.

6. The property has a long and varied development history. A BPA power easement crosses from east to west within the northern half of the site. In almost the center of the site is an abandoned Nike base which is now owned by the Kent School District and is the possible location of a future school. The southern and eastern portions of the property are underlain by a vast network of abandoned coal mines, predominantly the New Black Diamond Mine which was actively worked between 1884 and 1939.

7. More recently the property was subject to a major land use policy controversy as the potential location for the plat of Lake Desire Estates, which was denied preliminary approval in 1988 as a consequence of proposing sewered development in an area zoned for Rural uses. The plat was later revised and approved in 1991 for development with individual lot septic systems, consisting of a 59-lot Phase 1 with a 53-lot Phase 2 to follow after road capacity improvements were completed at the intersection of SR 169 and 140th Avenue Southeast. This revised proposal was never constructed, but rather was succeeded in 1992 by a subdivision of the property into 25 twenty-acre tax parcels. Although permits were submitted for construction of a roadway system to serve these large tax lots, this scheme was abandoned in favor of the 4:1 program proposal presently under review.

8. The Hearing Examiner issued his initial report and recommendation to the County Council on January 29, 1998. Thereafter, requests for reconsideration were filed by the Applicant and by King County DDES seeking changes to a number of the plat conditions. Based on these requests a notice of reconsideration was issued on February 18, 1998. The Examiner also received from the Applicant a motion for a limited reopening of the public hearing to consider new information bearing on the AM-peak hour traffic condition at the intersection of SR 515/Southeast 176th Street. In response thereto a notice of reopened hearing and prehearing order was issued March 6, 1998, and the reopened hearing was held on April 21, 1998. This revised report issued April 30, 1998, modifies the original January 29, 1998, report and recommendation on the basis of information received through both the reconsideration and reopened hearing processes. Changes made on reconsideration of a relatively minor nature include the modifications to Conditions 5.B, 15, and 30.C requested by the Applicant. Conversely, the changes requested to Conditions 33.E and 38 were not implemented because they raise issues concerning staff-recommended conditions that could have been addressed at the public hearing and DDES has not consented to such changes.

B. <u>Drainage</u>:

9. The proposed McGarvey Park development lies within three drainage sub-basins. These include Summerfield Creek, Madsen Creek, with Wetland 16 at its headwaters, and Lake Desire. Flows from developed areas east to the Lake Desire system consist solely of about five acres of access road facilities. On April 16, 1996, DDES granted the Applicant's request for a variance from Surface Water Design Manual Special Requirement No. 3 mandating preparation of a full master drainage plan and from Core Requirement No. 1 specifying discharge of flows at the natural location. The Applicant proposes diversion of about 24 acres to the Summerfield Creek system, where an existing Drisco pipe allows flows to be tightlined to the Cedar River without detention.

The variance authorizes this diversion as well as performance of a limited scope master drainage plan focused on areas of specific concern.

10. At the public hearing most of the attention was placed on the drainage requirements for the Wetland 16/Madsen Creek system. Existing development, including Petrovitsky Park, threatens the viability of the bog within Wetland 16 because of water quality impacts and fluctuations within the wetland water level. In consideration of providing detention and water quality treatment to Petrovitsky Park runoff (as well as for developed areas of the plat) and constructing storage and bypass facilities designed to moderate wetland fluctuations, the Applicant was allowed to approach the watershed hydrologic budget from a global perspective, thus permitting a lower level of specific monitoring and some relaxation on site clearing limits.

11. A continuing area of concern is whether the project has been appropriately designed to control water level fluctuations within Wetland 16 in compliance with the standards defined within the SWM variance, which are based on an assumption of a watershed forested condition. Staff in its testimony was adamant that strict compliance with wetland fluctuation standards was the *quid pro quo* for issuance of the SWM variance, and if required performance simulations indicate an inability to meet these standards, the Wetland 16 drainage and treatment system will need to be redesigned. A redesign of the Wetland 16 facilities would be viewed as a major plat modification requiring reopening of the preliminary plat hearing. Subject to this understanding, plus some tweaking of the proposed conditions to interject a 95% confidence interval into analysis of the model runs, the Applicant and staff were able to agree on the wording of the revised conditions. This consensus was facilitated by some last minute conceptual model runs provided by the Applicant which indicated a theoretical probability that the SWM variance fluctuation standards could indeed be met and wetland hydroperiods conducive to maintenance of the bog element in Wetland 16 sustained.

12. A second drainage issue concerns the risk that the sand filter system designed to treat runoff from the site and Petrovitsky Park for phosphorous removal prior to discharge to Wetland 16 will not drain adequately between storm events. Condition 35 deals with sand filter saturation and requires a 24-hour maximum drainage period. The risk of failure is a consequence of the fact that the facility is proposed at a low spot where the groundwater table reaches within one foot of the surface. While the Applicant anticipates installing a perimeter curtain drain to intercept flows prior to their reaching the filter facility, there is some skepticism that such a strategy will succeed at the depths required. Since complete draining of the sand filter within 24 hours after occurrence of a mean annual storm is an absolute requirement of Condition No. 35, failure to meet this performance standard could result in the necessity of relocating the sand filter after it has been initially installed. Accordingly, the Applicant will need to consider whether removing at least the 2/3 of the filter facility designed to treat plat runoff to a higher location would be a prudent design revision in light of the saturation risk.

13. Finally, it is important to note that the Applicant will construct an interceptor trench along the eastern boundary of the 25-foot buffer to be provided between the plat and Fairwood. As confirmed by testimony of Fairwood residents, existing yards in this area tend to become saturated due to the fact that groundwater perches above the shallow till layer. Since what little infiltration as naturally occurs will largely be lost after development, the trench is necessary to assure an absence of surface flows from McGarvey Park to Fairwood and likely will constitute an

improvement over the current condition.

C. Wildlife

14. A wildlife study performed in June 1995 by Shapiro & Associates focused on the 100 acre western portion of the McGarvey Park property proposed for development. The study described the area as currently "dominated by mature stands of mixed deciduous and mixed coniferous-deciduous forests" and characterized topographically by "gently rolling hills dissected by drainage corridors that generally slope northwestward from the property." The study noted signs of foraging by pileated woodpeckers and other cavity-nesting birds. In addition, red-tailed hawks were sighted on the property. The site was not regarded to be prime habitat for pileated woodpecker nesting due to the low snag density and general unavailability of large diameter conifer snags and downed logs.

    No red-tailed hawk nests were identified in the area where the hawk sightings occurred. The study noted that larger animal species and birds would have the mobility to relocate on the 80% of the property to be retained as open space, but "less mobile species such as amphibians, reptiles, and small mammals would be affected to a higher degree by the proposed development…and many would perish as a result of habitat loss and/or alteration."

15. Mary Harmegnies, a Fairwood resident who lives adjacent to the headwaters of Madsen Creek, testified at the public hearing as to the frequent presence in her back yard of pileated woodpeckers and her expectation that a pileated woodpecker nest exists near her house on the McGarvey Park property. She also stated that her son a few years earlier had found a turtle shell that might be from a Western pond turtle. As a consequence of this testimony a further site investigation was conducted on November 7, 1997, involving Ms. Harmegnies, a representative from the Audubon Society, and biologists representing King County and the Applicant.

    This visit largely confirmed the conclusions of the 1995 wildlife study. Only one cedar snag large enough to qualify as a potential pileated woodpecker nesting tree was observed, and it was located within the protected buffer for Madsen Creek. No red-tailed hawk nests were seen, and the biologists were firm in their opinion that the meadow features characteristic of Western pond turtle habitat were absent from the site and its immediate vicinity. While some loss of amphibian and reptile habitat is acknowledged, preservation of the major wetland and stream features will likely retain the most productive of such resources.

D. Geology.

16. Most of the western 100 acres within McGarvey Park subject to development is characterized by gentle slopes. This upland plateau, however, drops off abruptly to the north into the Cedar River Valley. These northern escarpments are characterized by slopes in the 40-70% range and are considered to possess landslide potential. A number of geotechnical studies have been performed in this area, with the current view being that a 50-foot buffer plus a 15-foot building setback line should provide adequate landslide protection if slope and buffer vegetation is maintained and all flows from development are directed away from the slopes.

17. The reconnaissance reports for the north slope area describe pervasive soil creep but no clear

indications of deep-seated slope failure. While the top of the slope appears to have been stable for at least the last eight or nine years, there are areas where bare soil conditions exist within an over-steepened exposure. Seeps and springs occur on the slopes but only in their lower levels. Accordingly, the Applicant's geotechnical engineer predicts a rate of slope regression of less than five feet over 100 years provided that vegetation remains intact and upper slope saturation is avoided.

18. The upper soils on the site are classified within the Alderwood series and considered very erosive at slopes in excess of 15%. Development areas of particular concern due to slopes in excess of 15% are found in the northern part of the plat, the north central area on either side of the BPA easement, and in the southwest corner near Wetland 16. Site development will be subject to seasonal clearing restrictions.

19. Area geology is the product of relatively recent glaciation processes resulting in a near-surface bedrock formation comprised of sandstone, shale and coal overlain in the northern and southern development areas by glacial till that reaches a thickness in some locations of 30 feet. The impermeability of these soils contributes to the high groundwater level which characterizes this region and forms its numerous wetlands.

E. <u>Coal Mine Hazards</u>.

20. The southern portion of the 500-acre McGarvey Park property was the location of a major coal mine. The New Black Diamond Mine operated actively on the site from 1884 to 1939 on four working levels at depths of up to more than 1,000 feet below the surface. Subsequently, gypo operators removed crop coal at shallow depths through 1941. A 2,000-foot wide swath running from the property's southwest corner and arcing gently northeast is designated a coal mine hazard under the County's Sensitive Areas Ordinance.

21. The coal mining hazard issue on the McGarvey Park property has been the subject of a number of studies. These studies have identified a series of 19 sink holes along the northern edge of the historic mining area located generally along the southeast boundary of the former Nike base site. Most of these sink holes appear to have been associated with poorly backfilled mine openings and occurred at shallow depths. The Applicant's 1994 coal mine evaluation study projects a line of mine workings with no substantial overburden running along the northern boundary of the coal mine hazard area and identifies a span of primary concern approximately 300 feet wide where mine working depths range between 0 and 250 feet and the subsidence risk is concentrated. This northernmost hazard boundary is also identified within the study mapping as the "area predicted to be affected by regional down-warping."

22. The mining depths and configurations depicted by the Applicant's engineer are based on elaborate mapping performed by the mine's primary operator, Pacific Coast Coal Company, and filed with the state through 1941. According to Brian Beaman's testimony, Pacific Coast Coal had a reputation for accurate mapping and, at those points where his field investigations were able to make confirmational observations, the document appears to be accurate within about 10 feet. While the housing projected for development within McGarvey Park will locate north of the

mapped coal mine hazard area, both the site road from the south plus its secondary connection east into the Lake Desire neighborhood will need to cross the coal mine hazard area. Based on the Pacific Coast Coal Company's mapping, Mr. Beaman projects the thickness of overburden within the road access routes to be at least 200 feet and contends that, due to the mine's high extraction rates, any subsidence likely to occur in this area should have already taken place.

23. The coal mine conditions proposed by Mr. Bottheim, the DDES geologist, allows the County to require additional test borings in the area proposed for road development to confirm the accuracy of the map data. There seems to be a general agreement that in view of the till and bedrock formations typifying the overburden, a thickness of 200 feet or more should provide adequate protection to roadway development. There is also agreement that sink hole risk is probably not at issue so much as the potential for trough subsidence.

24. A great deal of information is in the record concerning the nature of trough subsidence and its likelihood of occurrence at this location. But, due to the essentially technical nature of the issue and the fact that these access roads will provide the only entry and exit to the McGarvey Park development, we are constrained to defer to Mr. Bottheim's viewpoint without a detailed discussion of the literature. While everyone agrees that the likelihood of the historic mapping being grossly in error is small, KCC 21A.24.210.A.2 confers upon the County broad authority to require studies and reports to evaluate the extent of coal mine risk. Because he is the County's technical expert assigned to evaluate this risk, we are not inclined to second-guess Mr. Bottheim's determination as to the level of certainty required to eliminate such risk as a matter of legitimate concern. Mr. Beaman's analysis is no doubt plausible, but the number of unknown variables remains high, with no real data having been provided on the critical issue of whether and to what extent coal mine pillars were removed within the extraction process. Accordingly, in the absence of an obvious mistake, we will not substitute our judgment for that of Mr. Bottheim.

F. <u>Transportation</u>.

25. The 1991 Soos Creek Community Plan identifies the McGarvey Park property as part of its North Transitional area and explains its Rural designation in terms of its unsuitability to accommodate urban growth. Regarding transportation issues the Plan makes the following observations:

> "Currently, this large area is served internally only with local access streets. A more complete road network of arterials, neighborhood collectors and local roads would be required for urban development. Topographical constraints (steep slopes), environmentally sensitive features (wetlands, coal mine and erosion hazards), and other obstacles (existing development, power lines, large water bodies), make provision of a street network sufficient to support urban densities difficult. Another major north/south arterial from SR 169 to Petrovitsky is infeasible to construct due to the cost involved to negotiate the steep, unstable slope immediately south of SR 169. An additional east/west arterial would be infeasible to construct for the same reason due to a canyon east of 140th Avenue Southeast which any road would need to cross."

26. The McGarvey Park property is bounded on the north and northwest by the steep slopes and

ravines leading down to the Cedar River Valley, on the west by the Fairwood neighborhood, on the immediate east by a series of wetlands and on the south by Lake Desire and Petrovitsky Park. As a consequence, one of the major features of the project EIS was an elaborate consideration of the access alternatives for the proposed plat. This process ultimately devolved into an analysis of three prospective access routes in various configurations and combinations: western access at Southeast 165th Street through the Fairwood neighborhood to 140th Avenue Southeast for northbound traffic and to Petrovitsky Road for west and southbound traffic; a southern access through Petrovitsky Park to Petrovitsky Road; and a southeastern access to Petrovitsky Road via West Lake Desire Drive and Southeast 184th Street.

27. The EIS identified the preferred alternative as providing a principal access south through the County park to Petrovitsky Road supported by a secondary access southeast through the Lake Desire area. A gated emergency access also would be constructed at Southeast 165th Street so that Fire District # 40 vehicles could reach the emergency aid station tract to be dedicated near the southern boundary of the power line easement. A major conclusion of the EIS was that a full access vehicle connection west via Southeast 165th Street would create unacceptable impacts to the Fairwood neighborhood, whose roads are designed for residential use and feature driveway cuts over their entire length as well as inadequate sight distances for collector or arterial usage.

28. Placement of a residential neighborhood collector roadway within the exterior boundaries of a county park violates normal County policy and required the adoption of a special ordinance for its potential implementation. The southern access roadway is designed to traverse the western portion of Petrovitsky Park with all recreational facilities to be sited to its east. Nonetheless, certain use conflict issues will arise. The park is frequented by students from Ridgewood Elementary School located adjacent to the park's southwest corner, and due to the school's orientation and the acknowledged dangers of walking along the gravel shoulder on Petrovitsky Road, an informal pathway has developed through the school yard fence directly into the park. Because of the dangers and inconvenience to students walking from the elementary school to the park via Petrovitsky Road, if the neighborhood collector route through the Park is to be used the Applicant should provide a crosswalk with a hand-operated signal north of Petrovitsky Road in the general location where the current trail exists. On the other hand, neighborhood concerns over unauthorized nighttime use of the park by teenagers in automobiles cannot be altogether eliminated, but should be sufficiently addressed if onsite parking lots are gated to prevent after hours use. Implementation of these improvements will require the agreement of and coordination by a number of public agencies, including DDES, County Transportation Planning, the Parks Department, and the Kent School District. On reconsideration, Condition 16 affecting such improvements has been modified to provide more flexibility within the design process as well as action deadlines and better coordination among agencies.

29. The proposed secondary access road southeast through Lake Desire will be constructed as a Rural neighborhood collector. The Applicant will also be required to realign and widen West Lake Desire Drive between McGarvey Park and Southeast 184th Street to a 24-foot pavement width with a walkway on one side. The EIS assigns all plat eastbound traffic to the principal access road through the park based on time studies indicating this to be the shorter and quicker route. However, if a signal at the park access intersection with Petrovitsky Road is found not to be warranted by overall volumes, eastbound rush hour traffic may well prefer to divert through Lake Desire to the signalized intersection at Southeast 184th Street and Petrovitsky Road. This is

because under rush hour conditions the left turn movement from the park access road onto Petrovitsky will operate at an LOS F condition. But even if all eastbound plat traffic were diverted through the Lake Desire neighborhood, this would only add about 39 AM peak hour trips to the approximately 400 projected in year 2000 at the Southeast 184th Street/Petrovitsky Road intersection, which would still operate at an acceptable level of service. While the Lake Desire route would create unacceptable impacts as a primary access to McGarvey Park, the fact that most site traffic will head west rather than east makes it appropriate for secondary use and provides a much needed alternative access to both neighborhoods.

In summary, then, surrounding development patterns in combination with the existing road network and regional constraints due to area topography mandate a finding that the proposed routes through Petrovitsky Park provide the only realistically feasible access to the project. We also note that these same constraints support the road variance issued by the County Roads Engineer to allow the 99 lots within proposed Phase 5 to be served by a single long *cul de sac* access.

30. In addition to neighborhood circulation problems, the regional arterial network that serves this area is also under great stress. Based on the EIS trip distribution for this project, the arterials of principal concern are SR 169 to the north, 140th Avenue Southeast west of the project, and the Petrovitsky Road corridor on the south (which going west evolves into Southeast 176th Street and Carr Road). As currently constructed, most of these roadways and their accessory intersections will operate at LOS F in the project's horizon year without major capital improvements. Due to an aggressive construction campaign, most of the needed improvements are programmed to be built within the relevant timeframe. The State has completed its upgrade of SR 169 to four through-traffic lanes, and widening of 140th Avenue Southeast between SR 169 and Petrovitsky Road is funded for County construction. With these various projects on line, the only location which will receive 20% or more project traffic and will not operate at an acceptable level of service in 2000 will be the intersection of Southeast 176th Street/Carr Road with SR 515, as discussed below.

31. A Certificate of Transportation Concurrency was issued for McGarvey Park by the King County Department of Transportation on February 26, 1996. In his original report issued January 29, 1998, the Examiner questioned the viability of the concurrency determination with respect to the function of the Petrovitsky corridor. Subsequent to the issuance of the Examiner's initial report the King County Department of Transportation performed an analysis of the Petrovitsky corridor within its North Soos Creek Impact Study and determined that the corridor overall currently operates at LOS D-E during both the AM- and PM-peak hours.

32. The Petrovitsky corridor west of 140th Avenue Southeast is predicted by the EIS to be the most heavily traveled route for project traffic, with 35% of the traffic total assigned to it. Based on an estimated 463 PM peak hour project trips, the EIS assigns 162 to the Petrovitsky corridor west of 140th Avenue Southeast, with 148 of that number passing through the SR 515/Southeast 176th Street intersection.

33. The EIS and the Land Use Services Division staff report each stated that the intersection of SR 515 with Southeast 176th Street currently operates at Level of Service F in both the AM and PM peak hours. According to the Applicant's transportation engineer, Mr. Norris, the PM-peak hour

Level of Service F condition has existed at this location since 1992. Because it is considered by the State as built-out to its ultimate configuration, no further capacity improvements at this intersection were regarded feasible by the EIS study. As identified within the EIS, "necessary improvements to bring this intersection to a LOS E would include a southbound lane, southbound left turn lane, westbound right turn lane, eastbound through lane and eastbound right turn lane."

34. To mitigate McGarvey Park's significant adverse impact to an existing LOS F condition in the PM peak hour at the intersection of SR 515 and Southeast 176th Street, the Applicant has offered to install a signal on SR 515 one block south of the impacted intersection at Southeast 180th Street. The expectation is that this signal will facilitate eastbound traffic on Carr Road wishing to turn right on SR 515 by providing an intersection bypass route consisting of a right turn south on 105th Avenue Southeast followed by a left turn east on Southeast 180th Street to the signal. The theory is that by removing this traffic cohort from the eastbound through-flow, congestion will be reduced at the SR 515/Southeast 176th Street intersection, and overall intersection operations improved.

35. In response to the Examiner's preliminary indication he could not recommend approval of this project without a demonstration of the efficacy of such mitigation, the Applicant conducted a further study to attempt to quantify the benefit of its proposed signal and upgraded its proposal to include a right turn lane on Carr Road approaching 105th Avenue Southeast and bypass route signage.

36. A traffic count performed by William Popp Associates on December 5, 1997, and reinterpreted for the reopened public hearing within a memo dated April 14, 1998, determined that 77% of the vehicles turning right from Carr Road southbound on SR 515 continue further south past Southeast 180th Street. Based on a year 2000 prediction that 135 right turning vehicles would continue south past Southeast 180th Street, Mr. Popp assumed that if the Applicant's proposed improvements were installed, 75% of these right turning vehicles would instead choose to use the bypass route, resulting in a diversion of 102 vehicles. His time estimates show that with a signal at Southeast 180th Street a bypass route would be about 1-1/2 minutes faster for right-turning southbound traffic from Carr Road than the alternative remaining on Carr Road and turning right directly on SR 515. Since the number of eastbound through vehicles on Carr Road assigned to McGarvey Park for the PM-peak hour in the horizon year will be 75, Mr. Popp concludes that the project's impact will be mitigated by the signal at Southeast 180th Street. He also calculates that the year 2000 PM-peak hour overall intersection delay at SR 515/Southeast 176th Street would decrease 25 seconds due to the bypass even with the addition of traffic from McGarvey Park. WSDOT and King County Department of Transportation have reviewed Mr. Popp's bypass analysis and agree both with its methodology and its conclusion that horizon year intersection operation during the PM-peak hour with the improvements proposed will not be worse than the pre-project condition.

37. While Mr. Popp's approach to analyzing the mitigation effect of the proposed bypass strategy appears reasonable, it is useful to note that his analysis does not account for the 21 McGarvey Park trips in the evening peak hour at SR 515/Southeast 176th Street which fall within the southbound left turn movement from SR 515 to east Southeast 176th Street. Mr. Popp's rationale for this exclusion is that the southbound left turn movement is not a "critical movement" for the intersection. Even though at 444 PM peak hour trips it is by far the largest turning movement at

the intersection, its exclusion from critical movement status is presumably justified by the fact that a second southbound left turn lane is proposed to be installed at this location--an action which will reduce the congestion attributable to this left turn maneuver relative to other intersection movements. However, it is necessary to keep these matters in perspective: even with a second lane the southbound left turn movement on SR 515 is still projected to operate at LOS F, albeit an LOS F which is comparatively more benign than many other intersection movements.

38. The FEIS observes that "in the study area, congestion is currently experienced in the AM and PM peak hours…" and reasons that "therefore, traffic volumes are described for both time periods." Yet, even though the intersection of SR 515/SE 176th Street is the most congested intersection of them all and acknowledged to be at LOS F in both the AM and PM peak periods, the EIS documents contain no analysis of the AM peak hour traffic issues at this location. This omission is acknowledged but hardly explained in a footnote to FEIS Table 2, which refers to the SR 515 intersection and informs us "AM peak hour LOS not analyzed since LOS F condition already documented."

39. The primary rationale for the reopened hearing held on April 21, 1998, was the submission of new data by the Applicant relating to the operation of the AM-peak hour at SR 515/Southeast 176th Street. Briefly stated, horizon year traffic impacts at this intersection were projected in the EIS based on a 5.9% annual growth rate. More recent traffic studies conducted by Mr. Popp on behalf of the Applicant, and confirmed by similar counts done by both the County and the State, indicate that the actual growth rate is much less, somewhere in the vicinity of 2% per year. Consistent with this recent traffic count data, the County Department of Transportation supports the use of a 2.1% annual growth rate at the SR 515/Southeast 176th Street intersection based on its tabulation of the level of development authorized by County-issued building permits and concurrency certificates. These various data in combination establish that the AM-peak hour Level of Service at the intersection is currently Level of Service E and will not go to Level of Service F until about 2002 or 2003. This means that the intersection will operate at an acceptable LOS E during McGarvey Park's horizon year and the Applicant need not mitigate AM-peak hour traffic impacts as a condition of plat approval.

40. Other State intersections in the region have also been subject to discussion with regard to the impacts of McGarvey Park. These include SR 169 at 140th Avenue Southeast located northwest of the plat, which despite major capacity improvements on both roadways still may experience some bottlenecks. In particular, the free flow right turn movement from SR 169 eastbound south onto 140th Avenue Southeast appears to be constrained to some degree by the length of the right turn lane. The concern here is that rush hour eastbound through-traffic may queue at the intersection in sufficient numbers to temporarily block access to the right turn lane, thereby diminishing its effectiveness. WSDOT data also categorizes SR 169/140 Avenue Southeast as a High Accident Location. On the other hand, further extension of the right turn lane is likely limited by the location of the Cedar River Bridge, and the intersection even with the lane length constraint will operate at an acceptable level of service. Accordingly, an Applicant contribution to this intersection improvement should be required if feasible, but due to the fact that McGarvey Park traffic within this movement will be less than 10% of the total, the Applicant's contribution should be based on a proportional share determination.

Safety and congestion issues also have been raised variously by WSDOT and by neighborhood

testimony relating to access to SR 18 at Southeast 231st Street and Interstate 405 at SR 169. For purposes of reviewing intersection impacts, the County and State have agreed to regard each freeway ramp as a separate intersection which must be impacted by 20% of project traffic for County mitigation standards to apply. Pursuant to this methodology, McGarvey Park traffic impacts at freeway ramps fall below the threshold for mitigation based on trip distribution.

41. Historically, the need for increased east-west arterial capacity across the Soos Creek Plateau in order to move individuals from upland residential areas in the east to commercial and industrial sites located in the Kent Valley has been a major topic of local transportation planning and analysis at least since 1967, when the Green River Valley Transportation Plan proposed a new grid of major freeways (including the Petrovitsky Freeway parallel to the current arterial route). Over time this grandiose freeway scheme has been pared down to a more manageable level, usually including the development of one major new east-west arterial corridor plus HOV upgrades on existing routes. Thus, a 1985 study by William Popp & Associates proposed creating dedicated HOV lanes for the Petrovitsky corridor to be supported by new park and ride lots. And in 1987, as a consequence of a Puget Sound Council of Governments study, the focus of attention for developing a new east-west arterial corridor shifted to the area generally occupied by South 192nd Street and South 200th Street.

42. The HOV improvements identified for the Petrovitsky corridor have never been constructed, and a 1996 King County Department of Transportation study put to rest any notions of pursuing a major arterial construction project within the South 192nd/200th Street corridor. For this project to succeed would have required close cooperation among King County and the cities of Renton and Kent. Studies of the proposed corridor route disclosed major obstacles to be overcome, including high development costs, serious environmental impacts, citizen opposition, and the inability of Renton and Kent to agree on a corridor alignment. Accordingly, the Department determined the project to be infeasible and recommended its abandonment. Removal of the South 192nd/200th Street corridor from consideration for new arterial development again has shifted attention back to the feasibility of providing further upgrades to the Petrovitsky corridor, as evidenced by the County's draft North Soos Creek Impact Study recently issued.

43. It is not entirely accurate to say that the feasibility of providing transit service to McGarvey Park as a mitigation for project traffic impacts has been ignored by the project EIS. The FEIS acknowledges bus service currently exists in the Fairwood neighborhood west of the site along 161st Avenue Southeast, then offers a one paragraph discussion of transit impacts which is a marvel of evasion and illogic:

> "Limited transit service is currently available to the project site. However, the need for area-wide improvements should be reviewed for cumulative impacts from proposed development. It is unlikely, given the size of this development, that King County Department of Transportation would extend a direct fixed route service to the project site. The proposed land uses would generate demand for transit, however, given the fact that there is no direct transit route to the site the demand would be low. Therefore, the proposed action would not adversely affect transit service in the area."

44 The primary reason that transit service is unavailable to the McGarvey Park site is, of course, that its road system has been designed to preclude vehicle access between the project site and the

Fairwood neighborhood. Without doubt, the rationale for this design decision is compelling, first, because the Fairwood street system has not been constructed to accommodate the traffic volumes that McGarvey Park would introduce, and second, because denying access to the plat through Fairwood serves to mollify Fairwood residents who would otherwise be implacable foes of the project. But the adverse consequence of this decision for transit planning is to prevent the design of a street system which would allow existing Metro routes simply to be looped further east into McGarvey Park. As the plat currently is designed, it is approximately 2/10th of a mile from its northwest corner along Southeast 165th Street in Fairwood to the nearest bus stop on 161st Avenue Southeast, and approximately ½ mile to the same bus stop from the townhouse development planned for the southwest corner of McGarvey Park (if pedestrian access were provided from the plat to 163rd Place Southeast).

45. There is currently no bus service on Petrovitsky Road east of 140th Avenue Southeast, but the planned development of McGarvey Park in combination with a number of other new plats near Lake Desire make the extension of bus service into this neighborhood more feasible. With construction of a neighborhood collector through Petrovitsky Park to McGarvey Park, a secondary access from the plat to West Lake Desire Drive, and installation of a signal at the Petrovitsky Road/Southeast 184th Street intersection, the possibility is presented of creating a transit service loop to serve this neighborhood. Any approval of the McGarvey Park application should include review by Metro to assure that the plat roadway system is appropriately designed to accommodate bus service, with the additional option of requiring dedication of land for a small park and ride facility if necessary to accommodate demand from the northernmost lots planned for Phase 5 and any other outlying project locations.

CONCLUSIONS:

1. The regional roadway system which serves the McGarvey Park property has long been identified as suffering from traffic capacity problems. Despite an aggressive capital improvement program affecting many major area arterials, certain critical facilities remain chronically overburdened. The most egregious of these is the intersection of SR 515 and Southeast 176th Street, which in the PM peak hour has been at an LOS F condition since at least 1992, was measured in 1995 as experiencing an overall PM peak hour intersection delay of 74 seconds, and is projected by the Applicant's traffic consultants to operate in the year 2000 at an overall intersection delay of 119 seconds without the project and 94 seconds with the project plus a new signal installed at Southeast 180th Street.

2. What is remarkable about this increase in traffic congestion is that it has apparently occurred with the blessing of the County's new Integrated Transportation Program, which is designed to provide concurrency between traffic demand and capital facilities construction. While the essential methodology of the ITP appears to be defensible, it is clear that for certain areas of the County its thresholds have been been too generous, and its assumption that capital construction would be able to keep pace with the cumulative traffic demand generated by projects falling below its mitigation threshold was unduly optimistic. Provided with lenient exemption thresholds under both the Intersection Standards and with regard to the unfunded critical links analysis, the pace of development has far exceeded planning projections, and no effective mechanism

presently exists to abate its progress.

3. Equally disturbing is the fact that the County's concurrency certificate process is effectively screened from public review. The concurrency certificate issuance procedure is the ultimate "black box". Prior to submitting a permit application a development's projected traffic impacts are run through a computer model for the regional arterial network, and a volume to capacity ratio is generated. If the figure is below a stated standard, the certificate is issued. While theoretically subject to challenge, the certificate is issued without any supporting computations, findings or other rationale for its existence. Even if the raw data were available, by its nature it consists of mathematical information that only makes sense to an engineer conversant with the computer model. Therefore, the adequacy of the model and the determinations made thereunder simply must be accepted as an article of faith, and meaningful public review of this process is neither encouraged by its presentation nor realistically possible for members of the public who are not members of the technical elite.

4. A second issue of general importance relates to the question of whether the County's responsibility for assuring that adverse traffic impacts from McGarvey Park are mitigated is somehow diminished or limited by the fact that the principal intersections of concern, SR 515 at Southeast 176th Street and SR 169 at 140th Avenue Southeast, are State-controlled facilities. Certainly, from a real world perspective, no distinction exists in the function and operation of the regional roadway network based on whether a particular facility is within State or County jurisdiction. The adverse impacts to regional traffic patterns are not regulated by the jurisdictional boundary, and drivers traversing King County during rush hour congestion are unlikely to take solace from the fact that critical bottlenecks are being encountered more often on State facilities than on County ones. Nonetheless, the Applicant's attorney has argued that the County's Intersection Standards do not and legally cannot apply to the analysis and mitigation of traffic problems at State intersections.

5. From a purely theoretical standpoint, the Applicant's attorney is correct in one respect, but that respect is not dispositive of the issues at hand. It must be acknowledged that the County cannot force the State to accept a capital facilities improvement at a State controlled intersection which WSDOT does not wish to see constructed. There is nothing in the legal framework, however, which necessarily precludes King County from denying a project unless it mitigates impacts to a State intersection as measured by satisfactory compliance with the County's Intersection Standards. This is precisely the model followed by SEPA, which allows the denial of a project application based on its significant adverse impacts no matter where they occur, and there is no logical reason why such an impact analysis could not be mandated by the County's Intersection Standards.

6. As set out within the County's Integrated Transportation Program, the Intersection Standards are designed to assure safe and efficient intersection operations and to define the County's SEPA authority with respect to adverse traffic impacts. The IS contains two functional components, the evaluation of intersections affected by new development and the mitigation of the adverse traffic impacts that such new developments may cause. See KCC 14.65.010.C. The performance criterion is broadly stated at KCC 14.65.020.D.3: "The operative intersection standard for all intersections shall be 'E' ….".

7. The definition of significant adverse impacts contained at KCC 14.80.030 is equally broad. Stating that "a significant adverse impact is defined as any traffic condition directly caused by

proposed development" that would contribute more than 30 vehicles consisting of at least 20% of project traffic during a critical peak hour, this standard is applied to any "roadway intersection that provides access to a proposed development" which will function at a Level of Service worse than E. With respect to any development which will create a significant adverse impact as so defined, KCC 14.80.040 mandates, again without qualification, that "the owner of a proposed development shall be required to provide improvements which bring the intersection into compliance with IS, or that return it to its pre-project condition…." Finally, while KCC 14.80.050 authorizes the County to enter into interlocal agreements with WSDOT or other local municipalities for the collection of fees and mitigation of traffic impacts on roadways within their respective jurisdictions, this language does not reduce or qualify the obligation upon a developer to mitigate significant adverse traffic impacts, but rather merely describes one method for such mitigation to occur.

8. The interpretation stated above, which views the requirement to meet the County performance standard for significant adverse impacts as separate from the mechanism for authorizing improvements at any specific location, is consistent with the public rules adopted by the County for implementation of Ordinance 11617. Section 9.5.3 of these rules provides in pertinent part as follows:

> "The Intersection Standards Chapter of Title 14 will apply to the public roads in unincorporated King County, including State highways, except for freeways. Improvements to State facilities will only be required under these rules if an interlocal agreement to provide specified improvements is executed by the County, the State, and the developer."

9. In 1996 an interlocal agreement between King County and the Northwest Regional Office of WSDOT was concluded to provide for general coordination of mitigation efforts at State intersections. The interlocal agreement adopts a definition of significant adverse impacts which is identical with that provided by the County's Intersection Standards. It authorizes imposing upon developers a requirement to fund or provide intersection improvements necessary to achieve LOS E or better. With respect to intersections where the Level of Service prior to development is already at F, the interlocal agreement provides that "the state will require that the estimated delay for a signalized intersection, or the reserve capacity for unsignalized intersections, or the volume to capacity ration for segments within the project be no worse than the predevelopment condition, at the whole or partial expense of development."

10. A final point to be discussed with respect to State intersections focuses on the question of whether an agreement by WSDOT administrators to accept project mitigation which fails to either remedy the LOS F condition or return the intersection to a condition no worse than its predevelopment operation is binding upon the County. Our view is that while the County has no authority to dictate to WSDOT the nature and extent of capital improvements to State facilities, the County retains the power under its Intersection Standards, as affirmed by the interlocal agreement with WSDOT, to deny a project which does not provide adequate traffic impact mitigation on State facilities independent of the willingness of WSDOT administrators to accept a lesser level of mitigation.

11. Turning from a discussion of these more general concerns to the particulars of the McGarvey

Park proposal, some further comment on the EIS is in order. The McGarvey Park EIS is an unusual document to the extent that it deals in a competent and thorough manner with a number of issues while virtually ignoring certain others of equal importance. For example, there is simply no acceptable rationale for the EIS's failure to discuss and analyze the project's traffic impacts during the AM peak hour at the SR 515/Southeast 176th Street intersection. The informal practice of limiting traffic impact analyses to the PM peak hour, which is in most cases the more congested condition, is warranted as an economy measure only when there is doubt as to whether any LOS F condition will be encountered at any time. Under such circumstances, if an analysis of a project's impacts during the PM peak-hour does not result in the discovery of an LOS F problem, one may safely infer that a second analysis of the AM peak-hour will produce a similar result and is therefore unneeded.

12. But when it is either known or reasonably anticipated that both the AM and PM peak conditions for a given intersection may operate at LOS F, there can be no justification for analyzing one condition but not the other. This is because the critical movements in the two instances will differ, and measures which may provide adequate mitigation during the PM peak hour may be totally ineffective during the AM peak. This is exactly the situation that obtains with respect to McGarvey Park and its proposed mitigation involving signalization of the SR 515/Southeast 180th Street intersection.

13. In opposition to this view, the Applicant argues that analysis of either the AM or PM peak hour (but not both) is mandated by County ordinance, based on the definition of "peak period" stated at KCC 14.70.020.L. The fallacy in this argument lies with its failure to note that the definitions contained at KCC 14.70.020 apply to the Transportation Concurrency Management chapter, not to the Intersection Standards. The definitions applicable to the IS appear at KCC 14.80.020. More critically, the term "peak period" is never actually used in the Intersection Standards. Rather, the phrase "<u>any</u> one hour period" (emphasis supplied) is the key operative term within the IS. It is an unacceptable interpretation to modify the plain meaning of the IS by assigning regulatory effect to a concurrency definition which never even appears in the Intersection Standards chapter.

14. Finally, the EIS transportation discussion can be faulted for its treatment of transit impacts, which dismisses serious consideration of this important issue on the basis of an incorrect framing of the question. The matter to be reviewed is how the plat proposal will act to facilitate or impede the provision of efficient transit service in this neighborhood. This issue is not appropriately addressed by proposing a site layout which is so unfriendly to transit use that little actual transit demand can occur, and then glibly concluding that transit impacts are nonexistent.

15. Within the framework of impacts considered in the Final EIS, an unmitigated significant adverse environmental impact from traffic was identified during the PM peak hour at the SR 515/Southeast 176th Street intersection. Later studies indicate that the Applicant's proposed signal south of this intersection at SR 515/Southeast 280th Street will provide mitigation in the PM peak hour for the 75 McGarvey Park vehicles which are projected to be on Carr Road in the eastbound through flow. While offering the prospect of an overall reduction in intersection delay, this signal improvement will provide no direct mitigation for the impacts of the 21 McGarvey Park vehicles which are predicted to be within the southbound flow on SR 515 turning left and east onto Southeast 176th Street, a movement which will also operate at LOS F during the PM

peak hour, although at a reduced level compared with the intersection as a whole.

16. To meet the Intersection Standards as implemented by the interlocal agreement with WSDOT, a project proposal must mitigate its traffic impacts at a signalized State intersection in unincorporated King County so that the estimated intersection delay will be no worse than either LOS E or the predevelopment condition. Based on the data introduced at the reopened hearing, the SR 515/Southeast 176th Street intersection will function at better than LOS F during the AM peak hour during the project's horizon year and will be mitigated by the Applicant to achieve in the PM-peak hour an F Level of Service which will be superior to the no-project condition.

17. The conditions of approval will also provide pedestrian connections to the Fairwood neighborhood so that McGarvey Park residents who wish to use the existing bus service (despite the walking distance) can at least do so with a minimum of difficulty. Because it is also reasonable to expect that the pattern of future residential development in this neighborhood will create opportunities for new transit routes to be implemented, the road design for this plat should include provision for Metro review to assure that prospective requirements for efficient transit planning can be met. The imposition of transit planning conditions is abundantly supported by the policies of the Soos Creek Community Plan, particularly Policies R-25 and –27 and T-11 and –23, as well as the Transportation Demand Management Policies of the 1994 Comprehensive Plan.

18. If approved pursuant to the conditions recommended below, the proposed subdivision makes appropriate provision for the public health, safety and welfare; serves the public use and interest; and meets the requirements of RCW 58.17.110.

19. The conditions of approval recommended herein, including dedications and easements, will provide improvements which promote legitimate public purposes; are necessary to serve the subdivision and are proportional to it impact; are required to make the proposed plat reasonably compatible with the environment; and will carry out applicable state laws and regulations and the laws, policies and objectives of King County.

RECOMMENDATION:

APPROVE the preliminary plat of McGarvey Park as revised and received September 12, 1997, to be developed as either Option A or B, subject to the following conditions of final approval:

1. Compliance with all platting provisions of Title l 9 of the King County Code.

2. All persons having an ownership interest in the subject property shall sign on the face of the final plat a dedication which includes the language set forth in King County Council Motion No. 5952.

3. The plat shall meet the base density and minimum density of the R-6 zone classification. All lots shall meet the minimum dimensional requirements of the R-6 zone classification or shall be as shown on the face of the approved preliminary plat, whichever is larger. Minor revisions to the plat which do not result in substantial changes may be approved at the discretion of the

Department of Development and Environmental Services. Lots 359 through 368 and Lots 425 through 560 *Option A* and Lots 435 through 564 *Option B* shall be for townhouse development only unless the lots are redesigned to a minimum 30-foot lot width. A note to this affect shall be placed on the final plat.

4. Any changes from the preliminary plat map shall require revision(s) to be submitted for review and approval by DDES. Proposals to combine portions of *Options A* and *B* which are not consistent with the preliminary plat will require a revision to be submitted for review and approval by DDES.

5. The required open space (approximately 392 acres) shall be dedicated with the recording of Phase I.

   A. The following note shall be placed on the open space tract: "That portion of the subject property with open space land use designation shall remain uncleared and be placed into a contiguous open space tract; provided, however, vegetation may be altered for utilities (including stormwater detention facilities) and roads (including clearing required for entering sight distance). Use shall be limited to public, non-motorized outdoor recreation. Any alterations to the tract such as, but not limited to, clearing, grading, and timber removal are subject to King County Codes and for review and approval by King County Parks and other related King County agencies."
   B. If the recording of Phase 1 and Phase 2 is not simultaneous, a note shall be placed on the plat map requiring a future road through the open space with the recording of Phase 2. This may require signatures from other King County Departments.

6. The applicant shall obtain final approval from the King County Health Department.

7. The applicant shall obtain the approval of the King County Fire Protection Engineer certifying that the plat meets the fire hydrant, water main, and fire flow standards of Chapter 17.08 of the King County Code.

8. All utilities within proposed rights-of-way shall be included within a franchise approved by the King County Council prior to final plat recording.

9. Lots within this subdivision are subject to King County Code 21A.43 and Ordinance12532, which impose impact fees to fund school system improvements needed to serve new development. As a condition of final approval, fifty percent (50%) of the impact fees due for the plat shall be assessed and collected immediately prior to recording, using the fee schedules in effect when the plat received final approval. The balance of the assessed fee shall be allocated evenly to the dwelling units in the plat and shall be collected prior to building permit issuance.

10. Suitable recreation space shall be provided, consistent with the requirements of KCC 21A.14.180 and KCC 21A.14.190 (i.e. sport court(s), children's play equipment, picnic table(s), benches, etc.).

    A. An overall conceptual recreation space plan shall be submitted for review and approval by DDES and King County Parks with the submittal of the engineering plans for Phase I.

This plan shall include location, area calculations, dimensions and general improvements. The approved engineering plans shall be consistent with the overall conceptual plan.

B. A detailed recreation space plan, consistent with the overall conceptual plan as detailed in A., shall be submitted for each phase for review and approval by DDES and King County Parks prior to or concurrent with the submittal of the final plat documents.

C. *Option B* shall include a paved 5-foot walkway system extending from the south to the north and linking recreation spaces/tracts. This path system shall be clearly delineated by landscaping, walkways or other appropriate means to ensure that private yards do not encroach into the recreation space(s) and/or paved trail/path/ walkway system(s).

11. A pedestrian access tract, a minimum of 10 feet in width with 5 feet of pavement, shall be provided from 165th Avenue SE west to SE 163rd Place prior to final approval of Phase 3. This tract shall be owned and maintained by the homeowners association, and an easement provided for the public. A second pedestrian access sidewalk approved as to design by DDES shall be provided adjacent to the emergency access gate within the right of way for Southeast 165th Street prior to final approval of Phase 4.

12. A homeowners' association or other comparable organization shall be established to the satisfaction of DDES to provide for the ownership and continued maintenance of the recreation, sensitive areas, and other commonly owned tracts.

13. Street trees shall be provided as follows:

A. Trees shall be planted at a rate of one tree for every 40 feet of frontage along the neighborhood collectors (Petrovitsky Parkway; 168th Ave SE; 165th Ave SE). Spacing may be modified to accommodate sight distance requirements for drive ways and intersections.

B. Trees shall be located within the street right-of-way and planted in accordance with Drawing No. 5-009 of the 1993 King County Road Standards, unless King County DDES and/or Department of Transportation determines that trees should not be located in the street right-of-way.

C. If DDES determines that the required street trees should not be located within the right-of-way, they shall be located no more than 20 feet from the street right-of-way line.

D. The trees shall be owned and maintained by the abutting lot owners or the homeowners' association or other workable organization unless the county has adopted a maintenance program. This shall be identified and noted on the face of the final recorded plat.

E. The species of trees shall be approved by DDES, if located within the right-of-way, and shall not include poplar, cottonwood, soft maples, gum, any fruit-bearing trees, or any other tree or shrub whose roots are likely to obstruct sanitary or storm sewers, or that is not compatible with overhead utility lines.

F. The applicant shall submit a street tree plan and bond quantity sheet for review and approval by DDES prior to engineering plan approval. DDES shall also review the street tree plan if the street trees will be located within the right-of-way.

G. The applicant shall contact Metro Service Planning at 684-1622 to determine if any neighborhood collectors will be on a bus route. If the neighborhood collectors are on a bus route, the street tree plan shall also be reviewed by Metro.

H. The street trees must be installed and inspected, or a performance bond posted, prior to recording of the plat. If a performance bond is posted, the street trees must be installed and inspected within one year of recording of the plat. At the time of inspection, if the trees are found to be installed per the approved plan, a maintenance bond must be submitted or the performance bond replaced with a maintenance bond, and held for one year. After one year, the maintenance bond may be released after DDES has completed a second inspection and determined that the trees have been kept healthy and thriving.

A $538 landscape inspection fee shall also be submitted prior to plat recording. The inspection fee is subject to change based on the current County fees.

14. The following conditions shall apply to implement the P-suffix conditions for this project:

A. **Clearing and Grading.** The applicant has the option to clear the individual building envelopes during construction of the roads and utilities, or upon approval of the individual building permits. If the building envelopes are to be cleared during road and utility construction, the individual building envelopes shall be shown on the engineering plans and limited to the maximum area identified in the Community Plan (1991 Soos Creek Community Plan, page 148), and the clearing limits for each building envelope shall be clearly marked or flagged on each lot and inspected prior to clearing. Deviations from these standards may be allowed based on a special study prepared by a qualified forester with expertise in windthrow and tree disease. As an alternative to the above, the applicant may clear and grade a maximum of 3 phases simultaneously. Prior to engineering plan approval for future phases, the applicant must demonstrate to the satisfaction of DDES that erosion control measures for the previously approved phases are adequate.

B. **Significant Tree Retention.** The applicant shall demonstrate compliance with the P-suffix conditions regarding significant tree retention prior to engineering plan approval (1991 Soos Creek Community Plan, pages 152-155). This may include the replanting of trees in other areas within the urban portion of the site (i.e. the open pit mine reclamation area, stream corridor, etc.)

C. **Glacier Ridge 4-to-1.** The applicant shall designate and dedicate the required permanent open space concurrent/prior to the final recording of the subdivision (phase 1).

15. As proposed by the applicant, a 25-foot buffer shall be provided along the west boundary. The

native vegetation shall be retained, except that diseased, damaged or hazardous vegetation may be removed from the buffer. This buffer shall be owned and maintained by the homeowners' association.

16. A. For those improvements within and/or which traverse Petrovitsky Park, the plans therefor shall be approved by DDES and King County Parks prior to engineering plan approval. In addition to the facilities identified elsewhere (and subject to the provisions stated in subsection B below), these improvements shall include the following:

    i. A crosswalk and hand-activated signal light to be installed on Petrovitsky Parkway at a location north of the access driveway to the existing parking lot.

    ii. Unless waived by the Kent School District, a trail from Ridgewood Elementary School to the sidewalk to be constructed on the west side of Petrovitsky Parkway.

    iii. Unless waived by County Parks, gates to the entries of any parking lots possessing direct access to Petrovitsky Parkway so that park facilities can be closed off to vehicle access during periods of park closure.

    B. The following conditions and limitations shall apply to construction of the improvements listed above in subsection A:

    i. Prior to Phase I engineering approval, DDES shall request in writing permission from King County Parks Department for construction of the trail identified in 16.A.ii above. If Parks does not confer such approval within 60 days, construction of the trail shall not be required; provided that, DDES may extend the response deadline stated herein a reasonable period at Parks' request if necessary to complete feasibility review.

    ii. Prior to Phase I engineering approval, DDES shall notify the King County Parks Department in writing of the gating requirement stated in 16.A.iii. If Parks does not affirm within 60 days its intention to accept such facilities, the gating requirement shall be deemed waived.

    iii. If they conclude jointly that pedestrian safety requirements can be met by alternative means, DDES, King County Traffic Engineering, King County Parks and the Kent School District may agree to modify the requirements stated in 16.A.i.

17. The applicant shall provide a site to Fire District #40, as shown on the revised site plan dated September 12, 1997 *(Options A* and *B*). Any proposed relocation of this site shall be subject to the review and approval of DDES and Fire District #40. This site shall be identified as a "Future Emergency Aid Station" on the final plat map.

ROADS

18. Unless otherwise approved by a variance to the 1993 King County Road Standards (KCRS), the roadways (as labeled on the revised preliminary plat maps dated 9-12-97) at a minimum shall be designed, constructed, and dedicated in accordance with the following classifications as described in KCRS 2.03:

A. Urban Neighborhood Collectors

- 168th Avenue SE *(Options A & B)* from Petrovitsky Road to the intersection of SE l65th.
- Street 165th Avenue SE *(Options A & B)* from 168th Avenue SE to the intersection of SE 166th Street.

B. Rural Neighborhood Collector

- Second proposed access from 168th Avenue SE to West Lake Desire Drive. See Condition No. 32 for additional requirements.

C. Urban Subcollectors

- SE 172nd Street *(Options A & B)* from 168th Avenue SE to the eastern boundary of the urban plat where it abuts the Kent School District Property, except that portion of the roadway proposed east of the "eyebrow" where only the dedication of the right-of-way is required.
- 168th Avenue SE *(Options A & B)* from SE 165th Street to SE 162nd Street.
- SE 165th Street *(Options A & B)* propose east of 168th Avenue SE, only the dedication of right-of-way is required.
- SE 173rd Street *(Option A)* from 165th Avenue SE to the intersection with 166th Avenue SE
- SE 171st Street *(Option A)* from 168th Avenue SE to the intersection with 164th Avenue SE
- SE 173rd Street *(Option B)* from 165th Avenue SE to the intersection with Tracts Al and A5.
- SE 172nd Street *(Option B)* from 165th Avenue SE to the intersection with Tracts A5 and A6.
- SE 171st Street *(Option B)* from 165th Avenue SE to the intersection with Tract A6.

D. Urban Subaccess Street

- 169th Avenue SE *(Options A & B)*.
- 168th Avenue SE *(Options A & B)* north of the intersection with SE1 62nd Street.
- SE 162nd Street (Options A & *B*)
- SE 161st Street *(Options A & B)*
- SE 160th Street (Options *A* & *B*)
- 166th Avenue SE *(Options A & B)* between SE 162nd Street and SE 160th Street.
- SE 165th Street between 165th Avenue SE and 168th Avenue SE

- SE 166th Street / 164th Avenue SE *(Option B)* from 168th Avenue SE to SE
- 165th Street (existing). See recommended conditions No. 21 regarding alternative alignment and emergency access gate requirements.
- SE 166th Street *(Option A)* between 168th Avenue SE and 165th Avenue SE.
- 165th Avenue SE *(Option A)* from SE1 66th Street to SE 165th Street (existing). See recommended conditions No. 21 regarding alternative alignment and emergency access gate requirements
- 164th Place SE *(Option B*)
- 167th Avenue SE *(Option A)* between SE 171st Street and SE 166th Street.
- 167th Avenue SE *(Option A)* between SE1 73rd Street and SE 171st Street.
- 166th Avenue SE *(Option A)* between SE 171st Street and SE 166th Street.
- 166th Avenue SE *(Option A)* between SE 173rd Street and SE 171st Street.
- SE 173rd Street *(Option B)* between 168th Avenue SE and 165th Avenue SE.
- SE 172nd Street *(Option B)* between 168th Avenue SE and 165th Avenue SE.
- SE 171st Street *(Option B)* between 168th Avenue SE and 165th Avenue SE.
- 173rd Place SE/164th Place SE *(Option A)* from 164th Avenue SE to 164th Ave SE.
- SE 172nd Street *(Option B*) from the intersection with Tract A5 & A6 to 164th Place SE
- 164th Place SE *(Option B*) from Tract A4 to the intersection with Tract A6.
- 164th Avenue SE/SE 173rd Street *(Option B)* from the intersection with Tracts A 1 & A5 and the intersection of SE 171st Street.

E. <u>Urban Minor Access Streets</u>

- SE 160th Court (*Options A & B*)
- SE 162nd Place (*Options A & B*)
- SE 166th Court (*Options A & B*)
- SE 167th Place (*Options A & B*)
- 169th Place SE (*Options A & B*)
- SE 164th Court *(Option B)*
- SE 171st Place *(Option B)*
- 169th Avenue SE *(Option A)*
- Alley A *(Option B)* from 168th Avenue SE through the horizontal curve to Tract A9 (at approximately Lot No. 4).

19. The horizontal curve connecting SE 173rd Street and 164th Avenue SE *(Option B* received September 12th 1997) does not conform to the KCRS. The roadway as currently proposed would serve over 50 dwelling units, and therefore should not be designed as a low speed subaccess curve. The final design should either:
    - Redesign the curve as a Subcollector or
    - Redesign the circulation pattern to reduce the number of lots utilizing the roadway to no more than 50.

20. The following roadways shall be design and constructed as Private Access Tracts (KCRS 2.09A) unless otherwise approved by a variance. The final plat shall contain a note requiring an undivided interest in the ownership and maintenance of all private access by the owners of the

lots utilizing the tracts:

- Tract A23 (*Options A & B*)
- Tract A22 (*Options A & B*)
- Tract A14/A4 (*Options A & B*)
- Tract A5 (*Option A*)
- Tract A1 (*Option A*)
- Tract A3/A10 *(Options A & B)* if utilized by more than 2 lots.
- Tract A19 (*Option B*)
- Tract A15 (*Option B*)
- Tract A1 (*Option B*)
- Tract A2 (*Option B*)
- Tract A 3 (*Option B*)

21. The following roadways shown in *Option B* shall be designed and constructed as alleys in accordance with KCRS 2.09.A. The design of all alleys shall be approved by the King County Fire Engineer prior to Engineering plan approval.

- Alley A / Tract A9 (See Condition 18e. regarding modification of Alley A).
- Alley B / Tract A8*
- Alley C / Tract A11*
- Alley D / Tract A13*
- Alley E / Tract A18*
- Alley F / Tract A17*
- Alley G / Tract A16*
- Alley H / Tract A12*
- Alley I /Tract A7*
- Tract A4.
- Tract A5
- Tract A6

Note: For alleys, KCRS 2.09A requires 18 feet of pavement width located within a 20-foot-wide tract. Per the requirements of the King county Fire Engineer, the alleys listed above denoted with an "*" appear to require a wider paved roadway (i.e., 20 feet). These wider alleys shall be recorded in Tracts a minimum of 22 feet in width. The paved roadway shall be either 20 feet of asphalt or 18 feet of asphalt plus 2 feet of alternate surfacing as allowed by KCRS (i.e., gravel).

22. The proposed roadways of 164th Avenue SE and SE 165th Street in the vicinity of the existing roadway of SE 165 Street shall be redesigned to a configuration similar to Exhibit 9 entitled, "Emergency Access Alternative alignment." The final design of the roadways shall be subject to the approval of the King County Road Division and DDES and shall include the following requirements:

- SE 165th Street shall be barricaded with an emergency vehicles access gate but shall allow pedestrian access. The emergency access gate shall be subject to the approval of the

King County Fire Engineer and King County Fire District No. 40.

- The portion of the roadway between the proposed intersection of 164th Avenue SE and SE 165th Street and the emergency access gate shall not serve more than 6 lots or extend more than 150 feet.
- The followingnote shall be shown on the final plat:
  "The emergency access gate located on SE 165th Street between the plats of Fairwood Park Division 15 and McGarvey Park shall remain in place until such time as the King County Council or successor jurisdiction formally approves its removal. A public hearing addressing the potential benefits and impacts thereof shall be held prior to any action which would remove the gate."
- Maintenance of the emergency access gate will be the responsibility of King County Road Services Division, per letter dated September 23, 1997.
- The design of SE 165th between Fairwood Division 15 and McGarvey Park shall provide for a pedestrian connection.

23. The submittal of the engineering plans shall include a detailed Entering Sight Distance (ESD)/Stopping Sight Distance (SSD) study as follows:

- The study shall show how ESD and SSD requirements are achieved at the location of all roadways, eyebrows, and driveways connecting to neighborhood collectors. The study shall include any existing or planned entrances to Petrovitsky Park parking lots.
- Given the potential use by King County Fire District No. 40 equipment, the study shall also apply to the SE 165th Street within the proposed subdivision.
- Where it is proven infeasible to provide the required ESD and SSD within a standard right-of-way, the right-of-way shall be widened. These areas of widened right-of-way shall be protected by a note on the final recorded plat prohibiting the installation of sight obscuring objects and vegetation.
- The study shall demonstrate how ESD requirements will be achieved at the proposed intersection of 168th Avenue SE (a.k.a. Petrovitsky Parkway) and Petrovitsky Road.

24. Prior to the engineering plan approval for the construction of 168th Avenue SE across the BPA easement, written comments must be obtained from the BPA.

25. There shall be no direct vehicular access to or from the neighborhood collectors from abutting lots.

26. A. Prior to engineering plan approval for Phase 1, the road layout for the plat (including access roads) and its construction sequence shall be reviewed and approved by Metro to assure compatibility with transit requirements in the event future bus service should be provided to the neighborhood. The road design shall facilitate future transit use with regard to street widths and curvatures and assure the availability of necessary transit stop locations. Dedication of land sufficient to construct an appropriately sized park and ride facility may be required if Metro determines such to be reasonably necessary to provide effective service to outlying portions of the development via either existing or future transit routes. It Metro exercises this option and the designated park and ride site both41 lies within the urban-zoned portion of the plat and will displace proposed lots and/or

amenities, such area shall be credited to the Applicant's open space share and a new area of equal size shall be added to the urban portion of the plat, as approved by DDES.

B. The applicant shall implement a Transportation Demand Management Program (TDM) in order to encourage a reduction in the number of vehicle trips per day generated by the project. The TDM Program shall include the following elements:

i. At the initial sale of each dwelling unit in the project, the builder/development shall offer to the purchaser a single one-month Metro bus pass, which pass shall be provided free of charge upon request any time within the first year of occupancy.

ii. At the initial sale of each dwelling unit in the project, the builder/developer shall offer to the purchaser a three month reimbursement toward one bus pass when the purchaser provides satisfactory proof that a six month bus pass has been purchased. The initial purchaser of a dwelling unit may present such proof of purchase anytime prior to the one year anniversary date of the closing date of the sale of the unit.

iii. Transit and rideshare information shall be distributed at the time of closing to the initial purchaser of each dwelling unit at McGarvey Park.

iv. On an annual basis through build out of the project, the builder/developer shall provide current transit and rideshare information to all homeowners in the project.

v. On an annual basis through buildout of the project, the builder/developer shall coordinate with the homeowners association a TDM informational meeting. Representatives from King County, including Metro, will be invited to make presentations about transit demand at McGarvey Park and the general vicinity and to provide updates on present and future transit routes in the vicinity of the project.

27. The intersection of SR 169 and 140th Way SE has been identified as a high accident location (HAL) by WSDOT. The proposed plat meets the trip threshold of 30 peak hour trips and 20% of project trips at this intersection. In response to September 23, 1997, letter, the applicant has provided a level of service and queuing analysis dated October 10, 1997. The conclusion of this analysis is that the eastbound right turn lane on SR 169 should be extended 600-700 feet west of the intersection.

If necessary right of way is available, and if prior to final plat approval WSDOT authorizes a project to extend the eastbound right turn lane and requests developer mitigation payments pursuant to its interlocal agreement, the Applicant shall make a proportional share payment to construction of such turn lane facility based on its contribution to the eastbound right turn movement during the PM peak hour.

28. A. The applicable lots shall have undivided ownership of private access tracts and alleys

(Option B) and be responsible for their maintenance. The final plat shall contain a note requiring undivided interest in the ownership and maintenance of all private access tracts and alleys.

B A planter island shall be provided within the "eyebrows".

C. The planter islands (if any) within the cul-de-sacs shall be maintained by the abutting lot owners or homeowners' association(s). This shall be stated on the face of the final plat.

29. Approval of the engineering plans for each phase shall include provisions for temporary cur-de-sacs and temporary barricades, pursuant to KCRS 2.08.

30. The following conditions are required for each phase of the development.

A. **Phase 1**

i. Petrovitsky Road:

- Construct an eastbound left-turn lane and merge/refuge lane on Petrovitsky Road at Petrovitsky Parkway;
- Construct a westbound right-turn pocket on Petrovitsky Road at Petrovitsky Parkway;
- Channelization and illumination plans for the turn lanes described above must be reviewed and approved by King County Traffic Engineering at the time of engineering plan approval;
- Prior to engineering plan approval, provide plans showing how entering sight distance at the intersection of Petrovitsky Parkway/Petrovitsky Road will meet King County Road Standards;
- Submit a signal warrant analysis to determine if installation of a signal is warranted under Phase 1 of the subdivision proposal. King County Traffic Engineering Section, Roads Services Division, will review warrant analysis and determine need for signalization.
- If it is determined a signal is warranted:
  - Signalization plans must be submitted to King County Traffic Engineering for review and approval prior to engineering plan approval.
  - The signal shall be installed prior to final recording of Phase 1.

ii. Petrovitsky Parkway:

- Construct Petrovitsky Parkway to full urban improvements, per road variance File No. L96V0017. Improvements shall include a 35-mph design speed, 26-foot pavement width (300 feet north of the intersection with Petrovitsky Road), vertical curb and gutter, 5-foot minimum landscape strip, and concrete 5-foot sidewalk on the west side and 5-foot minimum landscape strip with a 10-foot trail on the east side.

- At the intersection with Petrovitsky Road/Petrovitsky Parkway, the Parkway shall be widened to 36 feet to accommodate a northbound through lane, southbound left-turn lane, and southbound right-turn lane.
- Channelization and illumination plans must be reviewed and approved by King Traffic Engineering prior to engineering plan approval.
- Engineering plans for Petrovitsky Parkway must include plans for access to Petrovitsky Park and show revisions to the Park's parking lot.
- Park access and revisions to the parking lot layout must be reviewed by Traffic Engineering, DDES, and the Parks Department prior to engineering plan approval.

- At the time of Engineering plan review, the applicant shall notify and provide a copy of the engineering plans to the Kent School District for informational purposes only.
- Construct the facilities required by Condition No. 16.

B. **Phase 2**

i. Construct plat connection to West Lake Desire Drive and improve Lake Desire Road as follows:

- On-site plat access to West Lake Desire Road shall be constructed, per Variance L96V0017, with a minimum 24-foot paved travel way, vertical concrete curb and gutter, and 5-foot raised asphalt walkway along the southside and an 8-foot gravel shoulder along the north side of the new West Lake Desire Road connection.
- Widen the existing 172nd Avenue SE (West Lake Desire Road) to provide a minimum 24-foot travel way, vertical concrete curb and gutter, and 5-foot raised asphalt walkway along the west side from the new plat road to the intersection of SE 184 Street.
- The new plat access road will be designed and constructed as a through route to 172 Avenue Southeast. West Lake Desire Drive, where it intersects with the new plat access road, shall be realigned as a "T" intersection.
- The "T" intersection design shall be reviewed and approved by the Traffic Engineering Section and DDES.

ii. West Lake Desire Drive SE (172nd Avenue SE) shall be generally reconstructed as shown on Exhibit 10 entitled, "Proposed Lake Desire Road Improvement Plan" dated May 5th, 1997. Specific considerations include the following:

- The plan requires the reconstruction of several private driveways. Written permission must be obtained from the private property owners for any improvements located outside of public right-of way prior to engineering plan approval.
- The project may reconstruct West Lake Desire Drive to match its existing vertical alignment.

The engineering plans for the reconstruction of West Lake Desire Drive shall include a detailed construction sequence and a detour/traffic control plan providing continuous access to residents during construction.

iii. <u>Petrovitsky Road/Petrovitsky Parkway</u>

- Submit a signal warrant analysis to determine if installation of a signal is warranted under Phase 2 of the subdivision proposal. King County Traffic Engineering Section, Roads Services Division will review analysis and determine need for signalization.
- If it is determined a signal is warranted:

- Signalization plans must be submitted to King County Traffic Engineering for review and approval prior to engineering plan approval; and
- The signal installed prior to final recording of Phase 2.

iv. The Applicant shall enter into a two-party agreement with WSDOT to mitigate project PM peak hour traffic impacts at the SR 515/Southeast 176th Street intersection by payment of $145,000 toward the signal at SR 515 and Southeast 180th Street. An analysis shall also be performed to determine the length and design of the eastbound right turn lane proposed for Carr Road at 105th Place Southeast, to be approved by King County Traffic Engineering Section and WSDOT. Prior to recording of Phase 2, the Applicant shall obtain King County Traffic Engineering Section approval of its engineering plans to construct the proposed right turn lane on Carr Road onto 105th Place Southeast and for bypass signage.

C. **Phase 3**

Petrovitsky Road/Petrovitsky Parkway:

- Submit a signal warrant analysis to determine if installation of a signal is warranted under Phase 3 of the subdivision proposal. King County Traffic Engineering Section, Roads Services Division, will review analysis and determine need for signalization.
- If it. is determined a signal is warranted:
  - Signalization plans must be submitted to King County Traffic Engineering for review and approval prior to engineering plan approval; and
  - The signal installed prior to final recording of Phase 3.

D. **Phase 4**

Petrovitsky Road/Petrovitsky Parkway:

- Submit a signal warrant analysis to determine if installation of a signal is warranted under Phase 4 of the subdivision proposal. King County Traffic Engineering Section, Roads Services Division will review analysis and determine need for signalization.
- If it is determined a signal is warranted:
  - Signalization plans must be submitted to King County Traffic Engineering for review and approval prior to engineering plan approval; and
  - The signal installed prior to final recording of Phase 4.

E. **Phase 5**

Petrovitsky Road/Petrovitsky Parkway:

- Submit a signal warrant analysis to determine if installation of a signal is warranted under Phase 5 of the subdivision proposal. King County Traffic Engineering Section, Roads Services Division will review analysis and determine need for signalization.
- If it is determined a signal is warranted:

- Signalization plans must be submitted to King County Traffic Engineering for review and approval prior to engineering plan approval, and
- The signal installed prior to final recording of Phase 5.

DRAINAGE

31. Final plat approval shall require full compliance with drainage provisions set forth in King County Code 9.04 and the storm drainage requirements and guidelines as established by the King County Water and Land Resources Division. Compliance may result in reducing the number and/or location of lots as shown on the preliminary approved plat. The following conditions represent portions of the Code and requirements and shall apply to all plats.

    A. Drainage plans and analysis shall comply with the 1990 King County Surface Water Design Manual and updates which were adopted by Public Rule effective January 1, 1995. DDES approval of the drainage and roadway plans is required prior to any construction.

    B. Current standard plan notes and ESC notes, as established by DDES Engineering Review, shall be shown on the engineering plans.

    C. The following note shall be shown on the final recorded plat:

    "All building downspouts, footing drains, and drains from all impervious surfaces such as patios and driveways shall be connected to the permanent storm drain outlet as shown on the approved construction drawings # on file with DDES and/or the King County Department of Transportation. This plan shall be submitted with the application of any building permit. All connections of the drains must be constructed and approved prior to the final building inspection approval. For those lots that are designated for individual lot infiltration systems, the systems shall be constructed at the time of the building permit and shall comply with plans on file."

32. Final engineering plan approval shall require compliance with the provisions set forth in the King County Surface Water Design Manual (SWDM), Variance File No. L95V0080, The Limited Scope MDP dated May 1997, including any approved revisions, and any future variances. If any inconsistencies are found between the requirements described in the SWDM Variance (L9SV0080) and the Limited Scope MDP, those described by the variance shall prevail.

33. Variance No. L95V0080 to allow a Limited Scope MDP and two drainage diversions was approved April 16, 1996, subject to conditions in a letter dated April 16, 1996. An additional condition was added for clarification by letter dated July 16, 1997. Additional conditions and clarifications necessary to implement the variance requirements are listed below:

    A. The KCRTS design and all points-of-compliance analysis may use either the reduced data set or the historic data set, provided that the same data set is used consistently for each analysis. The wetland fluctuation analysis must used the historic data set because

partial year analyses are not supported in the reduced data set.

B. A current conceptual drainage plan, with phasing, for each drainage basin (Madsen - Creek, Summerfield Creek, Lake Desire, etc.) is required for all proposed development in that basin prior to engineering plan approval. The conceptual drainage plan shall be updated for each subdivisional phase and for any phase of construction approval.

C. The Madsen Creek downstream points-of-compliance analysis must be completed and demonstrated to be in compliance with KCRTS Level 2 for the entire Madsen Creek contributing area when fully developed, as proposed in the conceptual drainage plan, prior to approval of the engineering plans for each of the Madsen Creek basin subdivisional phases.

D. The Wetland #16 fluctuation analysis requirements shall be completed and demonstrated to be in compliance (within a 95% confidence level per Exhibit No. 46) with the variance conditions for all contributing areas when fully developed, as proposed in the conceptual drainage plan, prior to approval of the engineering plans for each of the Madsen Creek basin subdivisional phases. Calibration verification should use the current conditions of development upstream of Wetland #16, but fluctuation compliance should consider Petrovitsky Park as forested in the predevelopment condition.

E. The detention pond and water quality facilities preceding Wetland #16 must be constructed to their ultimate size and shape with the first phase of development. The placement of the sand may be delayed until the site is stabilized. The construction of the sand filter as stipulated in Condition No. 35 may require relocation within the open space area.

F. The detention pond and water quality facilities for those portions of the Madsen Creek drainage not flowing to Wetland #16 must be constructed to their ultimate size with the initial phase of development in the Madsen Creek basin, or sooner.

G. The detailed design for the adjustable flow control devices within the Madsen Creek/Wetland #16 basin, including interim settings for phased operation, are required with the first phase.

H. The pro-rata payment (10.25% of CIPs but not to exceed $45,000) for the King County bioremediation and bank protection Capitol Improvement Project (CIP 3136.3) must be paid prior to the recording of the first subdivisional phase within the Madsen Creek Basin. The actual pro-rata payment amount will be based on the cost of CIPs at the time of recording.

I. Engineering plan approval for each phase within the Madsen Creek basin must include corrective measures for identified problems or needed adjustments in the prior phases as determined by DDES.

J. All required modifications to the Summerfield Creek HDPE pipe including the flow surge correction must be included in the engineering plans for the first phase of

development within the Summerfield Creek basin.

34. The approved variance, No. L9SV0080, requires a monitoring program for Lower Cedar River (LCR) Wetland #16. The monitoring as required by Conditions 5 and 6 of the variance (pages 8 and 9) shall be implemented as follows:

A. Prior to Engineering Plan Approval of Phase 1

i. A detailed monitoring plan addressing the water quality and water level fluctuation aspects of the monitoring shall be approved by DDES. The plan shall utilize baseline monitoring already collected and anticipate the collection of remaining baseline data in order to establish goals for post-development monitoring. The plan shall specify parameters, number of stations, frequencies, instrumentation, duration of monitoring, weather conditions triggering sampling, duration of sampling, data analysis methods including statistical analysis, reporting frequencies and quality assurance quality control (QAQC) procedures for all data yet to be collected. Administrative costs for County review of the monitoring plan shall be reimbursed by the applicant.

ii. The monetary cost to conduct the post-development portion of the approved monitoring plan shall be established as follows: The cost shall be based on two estimates, one by a firm with expertise in environmental monitoring and one by King County. If agreement cannot be reached, the County shall establish the cost.

iii. Administrative costs to track project progress, review the monitoring data, and report of finding of the monitoring program shall be estimated by the County. Administrative costs shall not exceed 10% of the monitoring plan cost.

iv. A mechanism, such as a fund accessible to the County, shall be agreed to by the applicant and King County to assure funds are committed to conduct and administer the monitoring program. This mechanism shall include a process for the disposition of any unspent money.

v. Wetland hydroperiod monitoring shall be by continuous water level recorder. The data shall be analyzed against the excursion criteria stated in Condition 8 (page 9) of the April 16, 1996 variance letter. Hydroperiod monitoring shall not begin until at least 75% of the subbasin has been built out. Recommendations for adjusting the hydraulic controls will be made by the consultant and submitted to DDES.

vi. Baseline monitoring must be completed, including the QAQC review of the data. Data must be reported and in a data transfer format acceptable to the County. Administrative costs for County review of the baseline data shall be reimbursed by the Applicant. See Table entitled “Baseline Monitoring Remaining as of October 27, 1997”.

vii. Since the sphagnum bog wetlands are particularly sensitive to sediment input and may cause the sphagnum to die, special care during construction is needed to prevent impacts. An erosion control plan shall be included with the approved engineering plan and shall establish methods of controlling construction and earth disturbance in the basin so that

no sediment-laden water enters the upper 2/3 (the sphagnum bog portion) of the wetland. This may be accomplished by either treating the runoff or by diverting the runoff to the lower 1/3 of the wetland. In addition to a full range of erosion control, the plan shall include frequent inspections during periods of wet weather.

a. During periods of wet weather, the following measurements shall be taken for the discharges into the upper 2/3 of the wetland in the vicinity of the sphagnum community, per the water quality criteria below:

Level 1: Turbidity - less than 10 NTU if background less than 100 NTU less than 10% over background if greater than 100 NTU

Level 2: If turbidity exceeds Level 1, additional samples shall be taken and meet the following:

pH: below 7.0 at all times
Alkalinity: less than 20 mg/L
TP: less than 0.05 mg/L

b. The plan shall require the developer to retain an independent erosion control inspector to be present onsite during construction within the Wetland No. 16 basin. The inspector shall prepare daily reports to the contractor, a copy of which shall be submitted weekly to the King County DDES inspector. The frequency of inspection and reporting may be reduced after all roads and utilities are installed if the DDES inspector confirms that the site is sufficiently stabilized to meet the requirements of condition vii.a described above.

B. Prior to Plat Recording for Phase 1

i. Half (50%) of the post-development monitoring costs, including administrative costs, shall be deposited in a fund accessible to the County. The administrative portion of the costs, at a minimum, shall be placed in a cash account held by the County. The amount determined in item Aiii above shall be increased to include the rate of inflation.

C. Prior to plat recording for Phase 2

1. The remainder of the monitoring costs, including administrative costs, shall be deposited in a fund accessible to the County. Interest equal to the rate of inflation shall be added to the amount determined in item Aiii above.

ii. The party(ies) responsible for conducting the monitoring shall be designated by the applicant and approved by the County. If desired, the County may be designated to conduct the monitoring, and the fund amount transferred to a cash account held by the County.

35. Because of the importance of the sand filter in treatment of stormwater entering Wetland #16, and because high groundwater conditions at the currently proposed location could interfere with the ability of the sand filter to drain between storms, the applicant's engineer should consider relocating the proposed sand filter to a location with lower groundwater elevation. Should the applicant's engineer decide to construct the sand filter at the currently proposed location, the engineer shall demonstrate to the satisfaction of DOES that appropriate measures will be taken to ensure the adequate performance of the sand filter. The operation of the sand filter must meet

three objectives:

A. Any groundwater in the area of the sand filter must be below the invert of the underdrain pipe.
B. The sandfilter and associated underdrains shall not function as a groundwater interceptor trench or curtain drain.
C. Any groundwater interceptor trench or curtain drain built in conjunction with the sandfilter system shall not discharge to Wetland No. 16.

An assessment of the extent to which these three objectives are met must be made and submitted to DDES before any lots in the Wetland 16 subbasin are recorded. If these objectives are not met, then the sandfilter must be re-engineered or physically relocated to meet these objectives prior to recording of any plat. If after recording it is discovered that these objectives are not being met, then no further building permits shall be issued within this subbasin until these objectives are satisfied.

36. All stormwater discharges to Wetland 16 shall conform to KCC 21A.24.330.H.4 (Use of the wetland buffer for energy dissipation and associated pipes). The stormwater bypass line proposed parallel to Wetland 16 should be located outside of the wetland buffer, unless the applicant demonstrates to the satisfaction of DDES that no practicable alternative exists, in which case the bypass may traverse the wetland buffer. If the bypass line traverses the wetland buffer, the placement of the pipe shall be subject to the criteria described in KCC 21A.330.F (Use of a wetland buffer for sewer utilities).

37. The drainage facilities shall be sized to accommodate the drainage from the existing park facilities and a future 100-stall parking lot, per Ordinance 12828.

38. The drainage facilities to be located in the open space shall be natural in appearance. The engineering plans shall include:

A. Vegetation plan for the side slopes of the drainage facilities; and
B. Minimize the use of retaining walls, rookeries, and fences.

39. Downstream capacity problems exist in the drainage system from West Lake Desire Drive SE to Lake Desire. The system includes several private driveway cross culverts. The submittal of the engineering plans associated with the reconstruction of West Lake Desire Drive SE shall be based on a Level 3 downstream analysis of this system. The approved engineering plans shall include one of the following corrective measures:

- The capacity of the downstream culverts shall be increased to pass at least the 100 year-24 hour storm event, per SWDM 1.2.4. Permission must be obtained from all private property owners prior to any construction work on private property, OR

- The proposed detention system serving this basin shall be designed such that the maximum release rate shall not exceed the storm event, disclosed by the Level 3 analysis,

that results in flooding of the private driveways. The detention system shall hold the maximum release rate up to the 100-year 24-hour storm, OR.

- If the applicant's engineer is unable to obtain access to the downstream properties, the detention system serving this basin shall be designed using KCRTS to match durations for 50% of 2-year through 50-year and match 100-year peaks (Level 3 Flow Control).

  A 10-20 percent volumetric factor of safety shall be applied to all three options. The engineer shall state the percent factor of safety used, with justification in the TIR.

40. Prior to approval of the engineering plans for the drainage facilities serving the Madsen Creek/Wetland #16 basin, the applicant's engineer shall determine the outlet(s) for Lower Cedar River Wetland # 15. If the outlet to Wetland #15 is found to drain to Wetland # 16, then these flows shall bypass the drainage facilities (R/D, sand filter, etc.) serving the Madsen Creek / Wetland #16 basin.

41. The engineering plans approved by King County shall include a subsurface interceptor yard drain to be constructed along the western boundary of the proposed subdivision. The system shall be designed to intercept both surface and shallow groundwater flows. The recorded plat shall include the trench within a private drainage easement.

42. Undeveloped property, currently owned by the Kent School District, is located adjacent to and upstream of the proposed subdivision. Off-site flows from the upstream property enter the site of the proposed subdivision along its easterly boundary. To provide for potential future improvements to the upstream property, the engineering plans and final plat map shall provide adequate conveyance and easements for all offsite flows.

SENSITIVE AREAS

43. The following note shall be shown on the final engineering plan and recorded plat:

RESTRICTIONS FOR SENSITIVE AREA TRACTS AND SENSITIVE AREAS AND BUFFERS

Dedication of a sensitive area tract/sensitive area and buffer conveys to the public a beneficial interest in the land within the tract/sensitive area and buffer. This interest includes the preservation of native vegetation for ail purposes that benefit the public health, safety and welfare, including control of surface water and erosion, maintenance of slope stability, and protection of plant and animal habitat. The sensitive area tract/ sensitive area and buffer imposes upon all present and future owners and occupiers of the land subject to the tract/sensitive area and buffer the obligation, enforceable on behalf of the public by King County, to leave undisturbed all trees and other vegetation within the tract/sensitive area and buffer. The vegetation within the tract/sensitive area and buffer may not be cut, pruned, covered by fill, removed or damaged without approval in writing from the King County Department of Development and Environmental Services or its successor agency, unless otherwise provided by

law.

The common boundary between the tract/sensitive area and buffer and the area of development activity must be marked or otherwise flagged to the satisfaction of King County prior to any clearing, grading, building construction or other development activity on a lot subject to the sensitive area tract/sensitive area and buffer. The required marking or flagging shall remain in place until all development proposal activities in the vicinity of the sensitive area are completed.

No building foundations are allowed beyond the required 1 5-foot building setback line, unless otherwise provided by law.

44. The proposed subdivision shall comply with the Sensitive Areas Ordinance as outlined in KCC 21A.24. Permanent survey marking, and signs as specified in KCC 21A.24.160 shall also be addressed prior to final plat approval. Temporary marking of sensitive areas and their buffers (e.g. with bright orange construction fencing) shall be placed on the site and shall remain in place until all construction activities are completed. This shall include delineation and marking of sensitive areas (e.g. wetlands and associated buffers) located within Petrovitsky Park and open space, adjacent to proposed roadway and drainage facilities.

WETLANDS AND STREAMS

45. Preliminary plat review has identified the following specific sensitive area requirements which apply to this project. All other applicable requirements from KCC 21A.24 shall also be addressed by the applicant.

A. The Class I wetland(s) shall have a buffer width of 100 feet, measured from the wetland edge. The lots located in the southwest corner shall be redesigned and located outside of the 100-foot buffer for Wetland #16. The roads shall be designed so as to not terminate at the wetland buffer. This may result in the reconfiguration and/or loss of lots.

B. The Class II wetlands shall have buffer width of 50 feet, measured from the wetland edge.

C. The Class III wetlands shall have a buffer Width of’25 feet, measured from the wetland edge.

D. The Class III stream shall have a buffer width of 25 feet from the ordinary high water mark (OWHM).

E. The stream, wetlands and their respective buffer(s) within the urban area shall be placed in Sensitive Area Tracts (SAT).

F. Buffer averaging may be employed, so long as the total amount of the buffer area on site is not reduced and better resource protection is achieved. Note: Buffer averaging will not be allowed for Wetland #16, a Class I wetland.

G. A minimum building setback line of 15 feet shall be required from the edge of the SAT.

H. A final enhancement/mitigation plan must be submitted for review and approval by DDES along with the engineering plans for this proposal. The plan must include the final grades, hydrology, construction and monitoring notes and a detailed planting plan, showing species, size and location. Alterations are proposed to the following wetlands, streams and/or associated buffers:

- 167th Ave SE *(Option A)* Tract A8/Alley B *(Option B)*
- 165th Ave SE *(Option A)* 164th Ave. *(Option B)* .
- SE 165th Street *(Options A* and *B*)
- Off-site, West Lake Desire Drive .
- Others

I. Mitigation required pursuant to this project must be completed prior to final approval of the phase where the impact occurs. If this is not possible, due to seasonal requirements or other circumstances beyond the applicant's control, the applicant may post a performance bond which guarantees that all required mitigation measures will be completed within one year of plat construction.

J. Once the mitigation work is completed to DDES's satisfaction, the performance bond may be replaced by a maintenance bond in a form and amount sufficient to guarantee satisfactory workmanship, materials, and performance of the approved plan for a period of five years.

K. Upon satisfactory completion of the final monitoring inspection, DDES staff shall release the maintenance bond. If the project has not met the established performance standards at the end of the monitoring period, the applicant shall be responsible for the preparation and implementation of a contingency plan to remedy the situation.

L. The wetlands, streams and sensitive area tracts shall be delineated and signed in accordance with KCC 21A.24.160. The sign details shall be shown on the engineering plans.

STEEP SLOPES

46. A. Determine the top, toe and sides of 40% and greater slopes by field survey. The top of the slope shall be stationed, not to exceed 50 foot intervals. A base map with the stationing marked shall be submitted to DDES for review and approval, prior to approval of the engineering plans for Phase 5.

B. Provide a minimum of 50-foot buffer from these slopes. This buffer may be reduced with the submittal of a satisfactory soils report, for review and approval by DDES.

C. The steep slopes and their respective buffer(s), within the urban area, shall be placed in Sensitive Area Tracts (SAT).

D. A minimum building setback line of 15 feet shall be required from the edge of the SAT, within the urban area.

EROSION HAZARD AREAS

47. The applicant shall delineate all erosion hazard areas on-site on the final engineering plans (erosion hazard areas are defined in KCC 21A.06.415). The delineation of such areas shall be approved by a DDES geologist. The requirements found in KCC 21A.24.220 concerning erosion hazard areas shall be met, including seasonal restrictions on clearing and grading activities.

COAL MINES

48. A. A geologic hazard is posed by the abandoned coal mine workings underlying portions of the property. This hazard has had extensive evaluation by the applicant's consultants (Report by Icicle Creek Engineers dated March 18, 1997), including some mine opening mitigation work done by the Office of Surface Mines. Based on review of this documentation, site reconnaissance and discussions with the consultant, it has been determined that the mines are of sufficient depth below the site that the proposed residential development will not be at risk of damage. There remains some potential for damage to the proposed road structure (168th Ave SE) and utilities if appropriate mitigation is not incorporated in to the design. The following areas of additional evaluation need to be completed prior to engineering plan approval:

- The geotechnical engineer shall provide subsurface evaluation in the vicinity of the access roads. The number of borings, if any, and the scope of the evaluation shall be determined and agreed to by the applicant and King County prior to commencing the work.

- A quantitative assessment of the impacts of potential trough or regional subsidence on the road and stormwater drainage system shall be required, and the results of the assessment shall be incorporated into the engineering plans.

- Prior to dedication of the open space, the applicant shall submit a supplemental report prepared by a qualified geotechnical engineer to DDES and the Director of King County Parks. This plan shall include a detailed map which delineates the areas with potential for the highest risk of collapse/settlement. The report shall also include recommendations for future inspections and a schedule. Subsurface evaluation is not required for this open space report.

B. The approved engineering plans for Phase I shall include a grading and planting plan to restore the abandoned open mine pit located within Tract W (*Option A*)/Tract XX (*Option B*). For safety, the plan shall include interim signage and fencing as necessary. Restoration of the mine shall be fully bonded in accordance with these plans prior to the recording of Phase 1. The mine shall be restored, prior to the recording of Phase 4.

C. Coal mine hazard areas and setbacks shall be shown on the final plat.

49. The steep slope and landslide hazard sensitive area tracts adjacent to proposed development within the urban area shall be delineated and signed in accordance with KCC 21A.24.160.

PARK REQUIREMENTS

50. A landscape plan in accordance with KCC 21A.16.040(A) for Petrovitsky Parkway through Petrovitsky Park shall be submitted to King County Parks and DDES for review and approval prior to engineering plan approval (Phase 1).

51. The applicant shall demonstrate compliance with Ordinances 12827 and 12828 prior to final recording of Phase I. A letter from King County Parks shall be required to verify the conditions of this ordinance and associated written agreements have been met.

52. A 20-foot fence shall be provided where the distance from the edge of the roadway and outfield fence is less than 50 feet. Details of this fence shall be approved by King County Parks and shown on the engineering plans for phase I. This will require a building permit to be processed in conjunction with the engineering plans.

RECOMMENDED this 30th day of April, 1998.

_____

Stafford L. Smith, Deputy
King County Hearing Examiner

TRANSMITTED this 30th day of April 1998, to the parties and interested person listed on the attached list.

NOTICE OF RIGHT TO APPEAL
AND ADDITIONAL ACTION REQUIRED

New appeals of the Examiner's recommendation, or any expansion of an existing appeal, will be limited to the issues determined within this revised report either on reconsideration or pursuant to the reopened public hearing. These include the new factual determinations made with respect to traffic levels of service at the SR 515/Southeast 176th Street intersection plus changes to Conditions 4, 5, 15, 16, 26, 27, and 30.

In order to appeal the recommendation of the Examiner, written notice of appeal must be filed with the Clerk of the King County Council with a fee of $125.00 (check payable to King County Office of Finance) **on or before May 14, 1998**. If a notice of appeal is filed, the original and 6 copies of a written appeal statement specifying the basis for the appeal and argument in support of the appeal must be filed with the Clerk of the King County Council **on or before May 21, 1998**. Appeal statements may refer only to facts contained in the hearing record; new facts may not be presented on appeal.

Filing requires actual delivery to the Office of the Clerk of the Council, Room 403, King County Courthouse, prior to the close of business (4:30 p.m.) on the date due. Prior mailing is not sufficient if actual receipt by the Clerk does not occur within the applicable time period. The Examiner does not have authority to extend the time period unless the Office of the Clerk is not open on the specified closing date, in which event delivery prior to the close of business on the next business day is sufficient to meet the filing requirement.

If a written notice of appeal and filing fee are not filed within fourteen (14) calendar days of the date of this report, or if a written appeal statement and argument are not filed within twenty-one (21) calendar days of the date of this report, the Clerk of the Council shall place a proposed ordinance which implements the Examiner's recommended action on the agenda of the next available Council meeting. At that meeting, the Council may adopt the Examiner's recommendation, may defer action, may refer the matter to a Council committee, or may remand to the Examiner for further hearing or further consideration.

Action of the Council Final. The action of the Council approving or adopting a recommendation of the Examiner shall be final and conclusive unless a proceeding for review pursuant to the Land Use Petition Act is commenced by filing a land use petition in the Superior Court for King County and serving all necessary parties within twenty-one (21) days of the date on which the Council passes an ordinance acting on this matter.

MINUTES OF THE PUBLIC HEARING ON DEPARTMENT OF DEVELOPMENT AND ENVIRONMENTAL SERVICES FILE NO. L94P0022 – McGARVEY PARK:

STAFFORD L. SMITH was the Hearing Examiner in this matter. Participating at the hearing were Kim Claussen, Joe Miles, Paulette Norman, Rich Hudson, Richard Lowe, Louise Kulzer, Steve Bottheim, Jon Hansen, Edward McCarthy, Brian Beaman, Carl Bengtsen, Linda Rasmussen, Shirley Vacanti, Don Hurter, John Adams, Katherine Laird, Gary Norris, Bob Dixon, Wendy Mount, Paul Carpenter, Mary Harmegnies, Ken Nelson, Kinnon Williams, Sandy Haydock, Mandi Roberts, Stan Moen, Jeff Pitman, William Popp, Robert Josephson, Fawn Sieger, Gary Samek, David Mark, and Clint Marsh.

The following exhibits were offered and entered into the hearing record **October 27, 1997**:

Exhibit No. 1 Department of Development and Environmental Services File No. L94P0022.
Exhibit No. 2 Department of Development and Environmental Services Preliminary Report dated October 27, 1997
Exhibit No. 3 Application dated December 29, 1994 (original) February 26, 1996 (revised)
Exhibit No. 4 Declaration of Significance and Scoping Notice dated June 6, 1996

Exhibit No. 5 a) Draft Environmental Impact Statement dated march 11, 1997
b) Final Environmental Impact Statement dated July 22, 1997
Exhibit No. 6 Affidavit of Posting indicating September 19, 1997, as date of posting and September 26, 1997, as the date the affidavit was received by the Department of Development and Environmental Services
Exhibit No. 7 a) Overall site plan
b) Alternative 1 dated September 12, 1997
c) Alternative 2 dated September 12, 1997
(oversized exhibits and reduced copies)
Exhibit No. 8 Assessors maps
Exhibit No. 9 Emergency Access Alternative
Exhibit No. 10 Lake Desire Improvement Plan dated May 5, 1997
Exhibit No. 11 Wetland and Stream Studies by Shapiro and Associates dated
a) January 1992
b) February 1992
c) May 1992
d) June 1995
e) November 1995
Exhibit No. 12 Wetland Delineation Study - Lake Desire Access Road, by Watershed Company, dated July 1995
Exhibit No. 13 Geotechnical Studies by Geo Engineers, dated
a) December 15, 1994
b) July 20, 1995
c) October 5, 1995
Exhibit No. 14 Coal Mine Study by Icicle Creek Engineers, dated January 17, 1997
Exhibit No. 15 a) SWM variance decision dated April 16, 1997 (File No. L95V0080)
b) Letter of Clarification dated July 16, 1997
Exhibit No. 16 Limited Scope Master Drainage Plan
Exhibit No. 17 KCRS Variance Decision (File No. L96V0017)
Exhibit No. 18 a) Ordinance No. 12927
b) Ordinance No. 12828
Exhibit No. 19 Letter from King County OBSP dated February 14, 1997
Exhibit No. 20 Letter from WSDOT dated September 23, 1997
Exhibit No. 21 Addendum Traffic Info/response to WSDOT letter, by William Poop Associates, dated October 10, 1977
Exhibit No. 22 Williams & Williams letter re gate dated September 29, 1997
Exhibit No. 23 Letter from King County Road Services division dated September 23, 1997
Exhibit No. 24 Wildlife Study by Shapiro and Associates dated June 1995
Exhibit No. 25 GIS vicinity map
Exhibit No. 26 Stipulation between Fire Protection District No. 40 and Applicant
Exhibit No. 27 Letter dated October 23, 1997, from Fire District No. 40 to Hearing Examiner
Exhibit No. 28 Resume of Mandi Roberts
Exhibit No. 29 Resume of Gary Norris
Exhibit No. 30 Project alternative access routes (site plan options "A" and "B")
Exhibit No. 31 Vicinity transportation improvements
Exhibit No. 32 Certificate of Transportation Concurrency
Exhibit No. 33 Resume of Ken Nelson

Exhibit No. 34 Condition submitted by staff regarding intersection of SR 169 and 140th Way SE

The following exhibits were offered and entered into he hearing record **October 28, 1997**:

Exhibit No. 35. Revised recommendations submitted by staff
Exhibit No. 36 Baseline monitoring remaining as of October 27, 1997
Exhibit No. 37 Resume of Edward McCarthy
Exhibit No. 38 Chart showing design requirements for McGarvey Park R/D facilities
Exhibit No. 39 Interceptor drain schematic
Exhibit No. 40 Revised condition No. 33.a
Exhibit No. 41 Resume of Brian Beaman
Exhibit No. 42 Geological map/erosion and steep slopes (update Fig. 6 1995 report - Exhibit No. 13.c)
Exhibit No. 43 Maps of Bellingham, Renton and Issaquah areas where mines are located
Exhibit No. 44 Memo dated October 24, 1997, from Brian Beaman to Steve Bottheim
Exhibit No. 45 Two maps of mines submitted by Brian Beaman

The following exhibits were offered and entered into the hearing record **October 30, 1997**:

Exhibit No. 46 Confidence interval description for McGarvey Park Condition No. 33.d
Exhibit No. 47 Interlocal Agreement for Coordination with King County for Mitigation of Development Impacts on Intersections
Exhibit No. 48 Copy of Chapter 14.80 - Intersection Standards - King County Code
Exhibit No. 49 Geotechnical studies (7) submitted by Steve Bottheim (LUSD/DDES)
Exhibit No. 50 Letter dated October 30, 1997, from Linda and Harold Rasmussen
Exhibit No. 51 Letter dated October 29, 1997, from Mrs. Hal Wilson to hearing record
Exhibit No. 52 Stopping sight distance inventory
Exhibit No. 53 Peak hour turning movement counts
Exhibit No. 54 List of TDM requirements required by County
Exhibit No. 55 Correspondence between WSDOT, Port Blakely and William Popp
a) Letter dated January 23, 1996, from WSDOT to Kim Claussen
b) Letter dated September 5, 1996, from William Popp to WSDOT
c) Letter dated September 26, 1996, from WSDOT to Kim Claussen
d) Letter dated November 13, 1996, from Port Blakely to WSDOT
e) Letter dated April 25, 1997, from WSDOT to Kim Claussen
Exhibit No. 56 Applicant's transportation rebuttal
Exhibit No. 57 Summary of Mary Harmegnies testimony
Exhibit No. 58 New Black Diamond mine map
Exhibit No. 59 Requested changes to the McGarvey Park permit conditions and requested findings.

The following exhibits were offered and entered into the hearing record **December 15, 1997**:

Exhibit No. 60 Hard copy of e-mail from Kim Claussen to Examiner dated November 13, 1997, regarding wildlife
Exhibit No. 61 Memorandum dated November 13, 1997, from Tom Beavers to Kim Claussen regarding

McGarvey Park field investigation

Exhibit No. 62 Memorandum, with attachments, dated November 12, 1997, from Mary Harmegnies to the Examiner regarding search for pileated woodpecker nests

Exhibit No. 63 Technical memorandum dated November 14, 1997, from Mark Rector (Shapiro & Associates) to Hearing Examiners and parties of record

Exhibit No. 64 Report entitled Green River Valley Transportation Plan prepared July 1967 for Washington State Highway Commission, Department of Highways King County, Renton, Kent, Auburn, Tukwila, Algona & Pacific prepared by Vogt, Ivers, Stevens, Thompson & Associates

Exhibit No. 65 Marketing Strategies for HOV Alternatives prepared for Municipality of Metropolitan Seattle by William E Popp Associates in July 1985

Exhibit No. 66 South 192nd Street Preliminary Route Location Study SR 515 to SR 167 for City of Renton prepared by William E Popp Associates dated January 21, 1988

Exhibit No. 67 Study 192nd/200th Corridor September 1996; Analysis of Alternatives to the South 192nd/200th Street Corridor in the Soos Creek Planning Area of King County, Washington by King County Department of Transportation, Transportation Planning Division King County System Planning Section Staff October 1996

Exhibit No. 68 Letter dated November 25, 1997, from Don Wickstrom, Director of Public Works, City of Kent, to Examiner

Exhibit No. 69 Letter dated December 1, 1997, from Sandy Haydock, Fire Inspector, King County Fire Protection District 40, to Examiner

Exhibit No. 70 Letter dated October 27, 1997, from Bob & Robin Hungerford to Rich Hudson

Exhibit No. 71 Letter dated November 7, 1997, from Tony & Melody Sieger to Rich Hudson

Exhibit No. 72 Letter dated November 3, 1997, from Jim & Lynn Jameson to Rich Hudson

Exhibit No. 73 Letter dated November 19, 1997, from Jim & Lynn Jameson to Hearing Examiner

Exhibit No. 74 Letter dated December 4, 1997, from Linda/Harold Rasmussen to Hearing Examiner

Exhibit No. 75 Letter dated December 1, 1997, from Donald D. Kellogg to Hearing Examiner

Exhibit No. 76 Letter received December 8, 1997, by Hearing Examiner from Elizabeth M. Thornton

Exhibit No. 77 Letter dated December 2, 1997, from The Fairwood Greens Homeowners' Association to Hearing Examiner

Exhibit No. 78 Technical memorandum dated December 2, 1997, prepared by Shapiro & Associates to Kim Claussen re Evaluation of Stage Fluctuations in Wetland 16

Exhibit No. 79 Memorandum dated December 13, 1997, from William E Popp to Stafford Smith responding to Examiner's Notice of Continuance

Exhibit No. 80 Right hand turn lane improvement proposal

Exhibit No. 81 Three approved CIP projects in area

Exhibit No. 82 Applicant's Proposed Transportation Demand Management Condition

Exhibit No. 83 Boston Market traffic study

The following exhibits were entered pursuant to administrative continuance:

Exhibit No. 84 Letter dated December 23, 1997 from Katherine Kramer Laird to Stafford Smith, with enclosure

Exhibit No. 85 Letter dated December 29, 1997 from Katherine Kramer Laird to Stafford Smith

Exhibit No. 86 Memorandum dated December 23, 1997 from Paulette Norman to Stafford Smith

Exhibit No. 87 Green River Valley Transportation Action Plan dated January 1987, by Puget Sound Council of Governments

The following exhibits were offered and entered at the **April 21, 1998**, reopened public hearing:

Exhibit No. 88 Notice of Reconsideration dated February 18, 1998, with Applicant's Motion for Clarification and Reconsideration, and memorandum dated February 12, 1998, from Kim Claussen (DDES) to Examiner, attached.
Exhibit No. 89 Letter dated February 20, 1998, from Thomas A. Goeltz (Davis Wright Tremaine) to Examiner
Exhibit No. 90 Letter dated February 27, 1998, from Thomas A. Goeltz to Examiner with attached memorandum dated February 27, 1998, by William Popp
Exhibit No. 91 Memorandum dated March 2, 1998, from Mark Carey, Manager, Land Use Services Division, to Examiner in response to Notice of Reconsideration
Exhibit No. 92 Fax received by Examiner March 6, 1998, from Mary Harmegnies with attached letter dated January 21, 1998, from Ron Sims addressed to Ms. Harmegnies
Exhibit No. 93 Notice of Reopened Hearing and Prehearing Order dated March 6, 1998
Exhibit No. 94 Memorandum dated March 12, 1998, from Mark Carey, Manager, Land Use Services Division, to Examiner in response to Notice of Reopened Hearing and Prehearing Order (dated March 6, 1998)
Exhibit No. 95 Letter dated March 16, 1998, received via fax march 16, 1998, from Katherine Laird (Davis Wright Tremaine) to Examiner
Exhibit No. 96 Notice of Rescheduled Hearing dated March 18, 1998
Exhibit No. 97 Memorandum dated April 14, 1998, and received by fax April 15, 1998, from Mark Carey, Manager, Land Use Services Division, to Examiner in response to requested information per March 6, 1998, prehearing order
Exhibit No. 98 Letter dated April 14, 1998, from Katherine Laird (Davis Wright Tremaine) to Examiner
Exhibit No. 99 Memorandum dated April 14, 1998, prepared by William Popp Associates to Examiner regarding March 6, 1998, Notice of Reopened Hearing and Request for Additional Information with attached Technical Appendix
Exhibit No. 100 Memorandum dated April 14, 1998, prepared by William Popp Associates to Examiner regarding changes to Exhibit 79 for 2.1% Growth Rate at the SR 515/SE 176th Street Intersection with attached Technical Appendix

SLS:daz
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